

THE GEORGE WASHINGTON UNIVERSITY
Washington, D.C.

MINUTES OF THE REGULAR MEETING
OF THE FACULTY SENATE HELD ON
MAY 10, 2013 IN THE STATE ROOM

Present: President Knapp, Registrar Amundson and Parliamentarian Charnovitz; Deans Feuer, Goldman, and Johnson; Professors Acquaviva, Briscoe, Castleberry, Cordes, Costello, Downes, Garris, Harrington, Hawley, Helgert, Katz, Lantz, Lindahl, Marotta-Walters, McAleavey, McDonnell, Newcomer, Parsons, Pulcini, Rehman, Roddis, Sidawy, Simon, Swaine, Weiner, and Yezer

Absent: Provost Lerman; Deans Akman, Barratt, Brown, Dolling, Eskandarian, Guthrie, and Interim Dean Maggs; Professors Brand-Ballard, Brazinsky, Dickinson, Fairfax, Galston, Jacobson, Miller, Montague, Price, Shesser, Srinivas, Stott, Swiercz, and Williams

CALL TO ORDER

The meeting was called to order by President Knapp at 2:15 p.m.

APPROVAL OF THE MINUTES

The minutes of the meeting held on April 12, 2013 were approved as distributed.

INTRODUCTION OF NEWLY-ELECTED AND RE-ELECTED SENATE MEMBERS

President Knapp introduced the following newly-elected and re-elected Senate members. Newly elected members present at the meeting were Professors Ellen Costello, Alexander Downes, Robert Hawley, Rebecca Katz, Frederick W. Lindahl, Karen McDonnell, Joyce Pulcini, Kim Roddis, and Robert Weiner. Professors Jeffrey Brand-Ballard, Miriam Galston, Leslie Jacobson, Eugene Montague, Prasad Srinivas, and Barbara Miller were absent. Re-elected members present were: Michael S. Castleberry, Charles A. Garris Jr., Kathryn Newcomer, Donald O. Parsons, Scheherazade Rehman, and Gary L. Simon. Professors Roger Fairfax, Marie Price, and James H. Williams were absent. Professor Steve Charnovitz was re-appointed as Parliamentarian for the 2013-14 session.

For the benefit of the many new Senate members, President Knapp asked that Executive Committee members introduce themselves.

CHANGE IN THE ORDER OF THE AGENDA

Professor Rehman requested and received the consent of the Senate so that Executive Vice President and Treasurer Louis Katz could present his report as the next item of business.

UPDATE ON THE UNIVERSITY BUDGET

Executive Vice President and Treasurer Katz prefaced his remarks by saying he would provide the Senate with a picture of the University's overall financial health as well as discuss a number of issues about which very specific questions had been asked by members of the Senate Fiscal Planning and Budgeting Committee. Given the background of what has been achieved over the last several years, Vice President Katz said he thought it is important for GW to stay the course and continue to improve the institution during this time of opportunity, when many educational institutions have either slowed down or even stopped making progress. In some cases other institutions have actually gone backward. Continuing to invest in improvements to the University also makes it stronger and less vulnerable to what is transpiring in the marketplace.

Vice President Katz first addressed the issue of health care costs, which is an important issue for the University just as it is for the U.S. Health care costs continue to grow at a much faster pace than inflation, and total medical costs for the University for employees with health care coverage have increased 18% overall in the last calendar year. The largest part of this increase was due to some 50 claims from employees covered under the University's health care plans. Whether this is a one time event or whether this will continue, no one knows for sure. The University health plan is basically one of self-insurance with stop-loss coverage, and is administered by a third party.

In terms of overall University budget planning, the University assumes an inflation rate of 3% with increases in allowance made for the same increase in fringe benefits. The largest discretionary fringe benefit categories for the University are retirement benefits, health care, and tuition remission. If one component such as health care is growing at 18% (before national health care reforms come online) then clearly adjustments need to be made to ensure the long-term financial health of the institution. Last year, the overall increased cost to people covered by the benefit plans was slightly less than 10%. That varied depending upon the plan an employee selected. Discussions are currently underway with the Benefits Advisory Committee and other constituencies on campus to explore proposals the Administration will be putting forward for the benefit design for 2014, along with ways in which the University can moderate the effect of cost increases on employees enrolled in these plans.

Turning next to capital projects, Vice President Katz explained that GW is developing the campus within the outline of a twenty year 2007-2027 Campus Plan that permits the University to develop over one million square feet over the life of the Plan. If 70% of the buildout is accomplished within the twenty year time frame, the University will retain the right to develop the remaining 30%. If not, then the process of seeking reauthorization for additional square footage will need to be started over from scratch.

Thus far, the University has built out or has approval for projects in place for approximately one third of what the Campus Plan allows. Among projects already completed or underway are South Hall, the Science and Engineering Hall (SEH), the new building for the School of Public Health and Health Services (SPHHS), and the Law Learning Center (LLC). Square 54 was also part of this. There are several areas of campus

where additional square footage could be developed, such as the Academic Center, Tompkins Hall, the below-grade portion of the LLC and Staughton Hall. Specific projects will, of course, have to be looked at in the context of the overall campus construction plan as the University works to build a sense of community at the same time it enhances academic facilities.

Vice President Katz briefly reviewed some of the current projects of interest to the campus community. The SPHHS is on target for its funding sources and the overall cost of construction. It has been delayed by a couple of months for several reasons, including permitting issues and construction issues. The delay is of note because instead of starting classes in the new building in the spring semester of 2014, they will be delayed until the summer session.

The first phase of the LLC construction is now complete. This project came in over budget and this was due to two factors: increased scope of the project and some unforeseen below-grade issues discovered in the course of construction. Despite coming in somewhat over budget, the project overall has been successful.

President Knapp asked Vice President Katz to comment on the increased scope issues. Vice President Katz explained that in addition to the unforeseen below-grade level issues, the Law School asked for additional amenities at the LLC, and it agreed to pay for additional items within the facility itself. This was agreed to by the Administration.

Returning to the topic of other capital projects, Vice President Katz mentioned the GW Museum. Funding for the building will be provided through fundraising and debt. During the design phase for the Museum the University discovered it would actually be able to build a building fifty percent larger than what was originally intended. There was also a slight increase in the size of the associated conservation center on the Virginia Science and Technology Campus in Ashburn, Virginia. President Knapp made the point that it is the policy of the Board of Trustees to maximize the opportunities for any sites under development. This is due to the limited space available on the campus and the fact that it is less expensive to do this at the outset than it is to build and then demolish and rebuild University buildings. Vice President Katz agreed with this view of the University's strategy of taking advantage of everything the Campus Plan allows. An example of this was to build the SEH to the limit of allowed space, but to leave two of the upper floors unfinished for the time being.

As to the financing of the Museum, Vice President Katz said the original amount booked from the Textile Museum was \$25 million, of which \$5 million would go toward the Museum building. Another \$5 million will come from funding from the Albert Small Washingtoniana Collection, and another donor has contributed \$1 million. Thus, the initial goal of \$11 million has been met. Additional fundraising that will include naming opportunities and the possibility that sale of the Textile Museum property may bring the University more than estimated will also be factors in allowing the University to proceed with a larger building than originally contemplated. While there have been some construction issues, particularly with Corcoran Hall, the Administration is comfortable with the direction in which this project is going.

With respect to the SEH, the largest project underway thus far, construction is currently at grade level, and currently the building is on time and on budget. The three funding sources for the project remain revenues from Square 54, increased Indirect Cost Recoveries from Research, and fundraising. Because of the overall debt portfolio of the University and the restructuring and locking in of fixed interest rates, the original estimate that Square 54 would produce \$150 million in revenue toward the \$275 million overall SEH cost has been revised upward to approximately \$200 million. This leaves \$75 million of the original estimate to be funded from the other two sources. A total of \$30 million has already been raised for the SEH project, \$7 million of which is for the building and the remainder for various program purposes. The Administration continues to believe that the SEH continues to be a very promising project for GW and that it will have a multiplier effect on many parts of the institution, not only from programs that will occur there, but from space freed up for new uses once the SEH is occupied.

With respect to overall financial operations, Vice President Katz said he had been asked what would happen if in real terms tuition no longer increased. This is important because GW is a very tuition-dependent institution, with about 60% of its revenues coming from that source. If tuition could no longer increase in real terms, and nothing was done to help moderate that, it would mean that nothing in the budget should be increasing more than inflation. Of course, one funding source that is presently addressing the issue of finding new revenue sources is the work of the Innovation Task Force (ITF). It will take decades of sound financial planning and management to continue improving the University and making it normative with its peer group. As an example, a cash gift of \$1 billion would reduce the University's tuition dependence by about 3%. That is why multiple sources of revenue for the institution is such an important part of moving the University forward.

Vice President Katz next discussed the University's credit ratings and information in rating agency reports. Rating agencies have continued to rate the University with a positive, stable outlook, and the institution's ratings have been retained even though the amount of debt has risen. Rating agencies did note that the University has shrinking debt margins. However, this is by design. The reasons margins are shrinking is because of the increased amount GW has been putting into student financial aid. This started beginning in 2009, because of the state of the U.S. economy. If agency ratings are read closely, it will be seen that they view this as a prudent strategy under the circumstances. It is also important in this time of opportunity for the University to invest in faculty recruitment, growing research, and building new academic and student-related facilities. In a climate where a number of other very good educational institutions had been downgraded, rating agencies have not decided that GW's outlook is negative, which is the first thing that happens before an institution is considered for a downgrade.

Another issue is concern about the amount of debt GW is incurring and what might happen if interest rates rise. Vice President Katz said that he thought that interest rates are probably at historical lows and each time GW has issued new bonds, interest rates have continued to drop. Over approximately a 6 year period, the University has moved from a debt portfolio with 80% variable and 20% fixed rates to a point where one hundred percent of debt is now fixed. Thus, during this period of time, the cost of capital has been reduced from the mid-5% range to approximately 4.1%. This strategy has removed an enormous

amount of interest rate risk, and the administration believes this is a prudent strategy that should be continued.

Vice President Katz next discussed returns from the University's real estate portfolio and the effect on the endowment payout. Investments in real estate has been very good for GW. During the last ten years, returns have basically ranged from 15 to 20% on a compound basis. Part of this is due to the University's excellent location. Over the last 17 years since real estate returns have been specifically tracked, the compound rate of return has exceeded 18%. This is, of course, a significant source of revenue for the endowment.

Vice President Katz commented briefly on costs incurred in facility operating expenses. On an overall basis, University buildings (excluding investment properties) cost an average \$9 per square foot to operate. That is a combination of all of the different kinds of facilities including laboratory space, which costs more than the average rate. On an overall basis, these costs are not expected to change dramatically. While the SEH will significantly increase lab space, overall square footage in that facility utilized for labs will only take up approximately 40% of the building. As a side note, Vice President Katz said he thought the cost of lab space in the SEH would be less than \$9 per square foot, because the building would be very energy efficient and have a large floorplate, which tends to bring such costs down compared to a number of much smaller free-standing buildings. The two chief funding sources that will support increased costs in the SEH are significant savings identified by the ITF in costs for leased space once the Hall is occupied. Two operations that will be housed in the Hall will generate leased costs savings of \$2 million per year which can be used to support operating costs. The other funding source is revenue from increased indirect recoveries from research.

Another area about which questions have been asked is about administrative salary costs. Since 2011-12 overall salaries, wages and fringe costs have increased by an average of 1%. However instructional related salaries increased 4% during this period, and research related salaries decreased by 9%. Administrative services related salaries increased by only 1% because this was the source of a significant amount of savings identified by the ITF. Overall general administrative expenditures at GW relative to three of the University's peer institutions were below the norm. These overall expenses have been running at approximately 11% since 2009, and this is rate is expected to be in this general range going forward. By contrast, the average and the median of GW's marketbasket schools is at 13%. This result was not achieved by accident, rather it was by design, and part of the University's overall strategy to move the institution forward.

In response to questions about the FY 2014 Budget to be presented to the Board of Trustees at its meeting the following week, Vice President Katz said he did not expect anyone at the Senate meeting to be surprised by it as it has been discussed throughout the year with members of the FP&B Committee. There are new capital projects, but the percentage funding, i.e. how much is coming from operations and how much is coming from reserves, debt, and fundraising is pretty consistent what has been done over the last three years. One new project in the budget that everyone knows about already is the new residence hall, now called Square 77. Some have dubbed it the superdorm. This is a \$130 million project, and it will be funded by debt. Most important, this is a self-supporting project because it will generate housing revenue, so it will not negatively impact the rest of

the operating budget. Continued investments will be made in academic programs overall, particularly in connection with the Strategic Plan. Improvements in services for students, including career services, the counseling center, student health services will be made. Additional services will also be provided for schools and units in the form of Human Resources client partners and research administrators to help continue the growth of the University's research capacity. Lastly, the ITF continues to be right on target. Thus far over \$56 million has been identified in improved business practices and new program revenues.

For the benefit of those new to the Senate, President Knapp explained that the \$56 million figure is not cumulative, it will provide annual, recurring funds that the University can spend on its programs. Translated into an equivalent figure yielding 5%, it would amount to an endowment increase of \$1 billion. Vice President Katz also noted that this amount has been achieved more quickly than the original 5-year time frame posited and it's something that will not have a time limit on it, as it is becoming part of the culture at the University. He added that there is nothing magical about the original \$60 million figure. That was reached when the question was asked if there was a way in which to double the endowment payout rather than doubling the endowment itself, essentially achieving the same result.

Discussion followed. Professor Simon inquired about the tuition discount rate for AY 2013-14 compared to previous years. Vice President Katz responded that the average financial aid discount rate for the coming year is 38% for undergraduates. It is lower than this for graduate students. In response to a request to provide an explanation of the discount rate for those new to the Senate, Vice President Katz said it is the difference between the sticker price and the tuition students actually pay. The majority of the gap is covered by University resources rather than outside sources. He added that GW has a fixed price tuition plan in place which guarantees for five years that a student's tuition (and discount) will remain the same as long as they are academically qualified. Financial aid could be augmented if a family's needs increase, however, it will not be reduced for those five years.

Professor Yezer asked what the estimated growth rate for operating costs will be over the next five years. Vice President Katz said that the goal is keep this as close to inflation as possible. This is in line with the overall policy of maintaining a balanced budget at the University. If revenues (which include not only tuition but investment returns) are projected to grow at a certain level, then expenses cannot exceed that. Vice President Katz said he did not expect operating costs to vary dramatically from the 5% rate experienced over the past three to five years.

Professor Yezer said he agreed that health care costs would likely increase for the foreseeable future, and added he thought benefits policy will become fairly complex. He asked about the faculty consultative role in the formulation of benefits policy at the University. Vice President for Human Resources Sabrina Ellis responded that faculty input is provided by three faculty members appointed by the Senate Executive Committee to the Benefits Advisory Committee (BAC). Professors Biles, Castleberry, and Gupta presently serve on that group. In addition to providing information to the BAC, the same information is provided to the Senate Committee on Appointment, Salary, and Promotion Policies

(including Fringe Benefits) [ASPP] chaired by Professor Gupta. To date a number of conversations have been held about changes to the benefits plans for 2014, however, it is early in the planning year and information is still being collected and analyzed for the 2012 plan year. As that information becomes available, it will be provided to both the BAC and the ASPP Committee. This was also done for all the benefit plan changes for 2013.

Professor Cordes, Chair of the Fiscal Planning and Budgeting Committee, said that the issue of the University's declining operating margins was not the only one that credit rating agencies pay attention to. GW's rating this year was again stable, however, over the past 2 or 3 years, a note of caution about these margins and the potential impact on future credit ratings going forward has crept into rating agency reports. One comment made by Standard & Poors was that if GW's operating performance doesn't rebound to historical strength and financial resources do not experience significant growth, the agency could (not would) consider an overall financial profile more commensurate with a negative outlook or a lower rating. Professor Cordes asked Vice President Katz asked about some of the things that were being looked to at least maintain the institution's operating margin and perhaps expand it in future. Vice President Katz confirmed that operating margins are not the only thing that rating agencies base their judgments on. Overall, GW's ratings reports acknowledge the investments the University is making in financial aid and program growth. Faculty recruitment and the growth in research are also both very important building blocks for the University. Certainly the agencies would prefer for operating margins to improve, however, in recent years GW has increased the amount of its debt by 30%. This is by design, as it was done because it was possible to lock in the debt at historically low interest rate levels. This was disclosed to the rating agencies. The demand for bonds issued by GW has repeatedly been oversubscribed, meaning there were more orders than bonds available. This is because University debt is a very stable asset for institutions and companies to hold.

Professor Parsons said that one way the University has been dealing with the operating margin problem for the last several years has been to cut back sharply on financial aid for entering undergraduate classes. Vice President Katz disagreed with this, saying that on a percentage discount basis that is not the case. However, the size of the undergraduate classes has changed, and thus the absolute dollar amount appears to have changed. However, to each individual, the University has not changed its strategy. Senior Vice Provost Maltzman said that he expected the discount rate for this year's incoming freshmen would be somewhere between 37.5 and 38%, in line with the overall discount rate has been for the University. Professor again asserted that the discount rate was cut sharply for the last two entering classes, and asked for information on the discount rate for the Class of 2017. Vice Provost Maltzman said he thought the senior class and the junior class had a particularly higher discount rate than is the case at present, however, this year's rate would be approximately what the average has been across the entire student body. There being no further discussion, the next item on the agenda was addressed.

RESOLUTION 13/1, "A RESOLUTION TO RECOMMEND ADOPTION OF THE SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES"

Professor Charles Garris, Chair of the Committee on Professional Ethics and Academic Freedom, introduced Resolution 13/1. Before commencing his report, he welcomed all of the new senators, noting that this meeting marked a historic moment in

that this was the first meeting attended by members of the recently enlarged Senate. Professor Garris noted that, as set forth in Article IX, Section A. of the *Faculty Code*, the shared governance role of the Senate in University decision-making is twofold. The regular, active-status faculty shares with the officers of administration the responsibility for effective operation of the departments and schools and the University as a whole, and it also participates in the formulation of policy and planning decisions affecting the quality of education and life at the University. Another role of the Senate is to act as a conduit for information between the central University administration and the schools.

With this as background, Professor Garris drew the attention of the Senate to his PowerPoint report (the Report is included with these minutes) and outlined why the University needs a Policy on Sexual Harassment & Sexual Violence. That reason was set forth in Faculty Senate Resolution 04/3 several years ago, as follows:

The George Washington University reaffirms its commitment to maintaining a positive climate for study and work in which individuals are judged solely on relevant factors, such as ability and performance, and are free to pursue their academic and work activities in an atmosphere that is free from coercion and intimidation. Sexual Harassment is inimical to such an atmosphere and will not be tolerated"

[Faculty Senate Resolution 04/3]

The faculty has upheld this commitment openly and this sentiment has been expressed in numerous resolutions. Neither sexual harassment nor sexual violence are acceptable at the University and it will not be tolerated.

Turning to Resolution 13/1 before the Senate, Professor Garris said the Policy itself is rather complicated because a great number of things had to be balanced to arrive at a final document. Basically the goal was to present a clear statement that the University prohibits both sexual harassment and violence by any student, staff or faculty member, or any other person in the University community. It was also important for the Policy to achieve the following objectives:

1. Encourage reporting of sexual harassment before it becomes severe or pervasive;
2. Prohibit sexual harassment by any student, staff member, faculty member, or other person in the University Community;
3. Identify persons in the University administration to whom incidents of sexual harassment may be reported;
4. Prohibit retaliation against persons who bring sexual harassment complaints;
5. Assure confidentiality to the full extent consistent with the need to resolve complaints of sexual harassment appropriately and fairly;
6. Assure that allegations of sexual harassment will be promptly, thoroughly, and impartially addressed with appropriate regard for the interests of the persons involved and principles of fairness and due process;
7. Provide for appropriate corrective action to be taken against persons who have engaged in sexual harassment.

Professor Garris then gave an overview of the history of the development of the Sexual Harassment Policy and Procedures at GW as follows:

- December 11, 1998: The Faculty Senate endorsed the Interim Policy and Procedures Governing Sexual Harassment Complaints and recommended the formation of an ad hoc committee to review the interim policy and procedures and make recommendations for amendment; (98/5)
- December 11, 1998 – September 9, 2005, Interim Policy in effect Discussions continued between administration, ad hoc committee, and PEAF.
- September 9, 2005: Faculty Senate passes resolution 05/1 which created a new Sexual Harassment Policy and Procedures based on the work of a joint ad hoc committee of faculty and administration charged with preparing a proposed new policy. Passed by Board of Trustees.

Professor Garris said that on April 4, 2011, the Office of Civil Rights in the Department of Education sent a “Dear Colleague Letter” to the University providing guidance on university sexual harassment policies. Subsequently: GW signed a letter of consent in connection with a 2011 Title IX complaint against GW. Between May 2011 and May 2012 meetings between GW administrators and Department of Education attorneys revealed inadequacies in current GW policy according to OCR/DoE. Following these meetings, on August 24, 2012 the University Administration presented to the Senate Executive Committee a draft amended Sexual Harassment & Sexual Violence Policy & Procedures with a request that the Executive Committee approve it on an interim basis for the 2012 Academic Year. This draft was the product of an administrative working group. [Detailed information concerning Title IX and the “Dear Colleague” letter can be found on pages 21 through 26 of the Powerpoint report.)

As interim approval of the Interim Policy was granted on an emergency basis by the Executive Committee on behalf of the Senate and such action must be confirmed by the full Faculty Senate at its next regular meeting, on September 14, 2012 the Faculty Senate adopted “A RESOLUTION TO CONFIRM THE EXECUTIVE COMMITTEE’S EMERGENCY APPROVAL OF AN INTERIM UNIVERSITY SEXUAL HARASSMENT POLICY.” (12/3) Resolution 12/3 further provided that the Interim Policy approved for the 2012-2013 Academic Year would be reviewed by Senate Committees, after which it would be transmitted to the full Senate for its approval. The Executive Committee forwarded the Policy to the Senate Committee on Professional Ethics and Academic Freedom following the Senate meeting with the request that it provide its recommendations at the completion of its review process.

The following changes to the 2005 Policy were required pursuant to the “Dear Colleague” letter by the Office of Civil Rights/Department of Education. These changes were designed to:

1. Better convey the kinds of conduct that constitutes sexual harassment, including sexual assault and other forms of sexual violence;
2. Clarify that requiring the parties to mediate is not an option for resolving sexual assault complaints;
3. Provide equitable processes for both parties, including similar and timely access to any information used at a hearing;

4. Designate reasonable but specific time frames for the major stages of the complaint.

Actions taken by PEAF during review of the Policy included meetings with the following members of the University Administration: Dr. Terri Reed, Vice Provost for Diversity and Inclusion; Mr. Richard Weitzner, Associate General Counsel; Dr. Dianne Martin, Vice Provost for Faculty Affairs; Mr. Darrell L. Darnell, Senior Associate Vice President, Safety & Security; Ms. Tara W. Pereira, Deputy Title IX Coordinator. The Policy was also sent for review to a wide spectrum of the university community with a request to provide advice and analysis to PEAF.

The following individuals also provided reviews of the Policy to the PEAF: the Committee on the Status of Women Faculty and Librarians; Natalie B. Milman, Associate Professor, GSEHD; Rob Brady, Interim Director of EEO Office; Ellen Dawson; Professor, School of Nursing; Laird Kirkpatrick, Professor, Law School; and Gregory Maggs, Professor, Law School. Also consulted were Paul Peyser; Associate Professor of Finance, GWSB; Michael Selmi and Jonathan Turley, both Professors in the Law School; Joe Velez, Operations Manager, School of Nursing; Catherine Williamson, Director, Distance Education & Military Programs; and Art Wilmarth, Professor, Law School.

Following completion of all of the reviews, the PEAF discussed all of the recommendations from the review process. On December 13, 2012, PEAF submitted to Dr. Reed a list of 23 recommended changes. Dr. Reed provided the administrative response which accepted 18 proposed changes and declined 5 with explanations. On April 1 April 11, PEAF suggested further changes, and on April 26 the Administration declined further changes. As the final step in the process, PEAF drafted the current resolution for presentation to the Faculty Senate at its May 10, 2013 meeting.

Professor Garris then gave an overview of the complaint process in sexual harassment and violence cases in the GW community of approximately 32,000 people. The complaint process has been in effect since 1998. He also reviewed the formal hearing processes employed for students, faculty, and staff which involve either a Hearing Board (students) or a Special Panel (for faculty and staff) selected by lot from a pool of 18 persons by the Human Resources Department (page 9 of the Powerpoint report). The process for faculty under the *Faculty Code* is outlined on page 10, and timelines for student=student complaints are outlined on page 11.

In conclusion, Professor Garris advised that the PEAF Committee recommends that the revised "SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES" should be adopted as University policy, and that Resolution 13/1 be adopted in its entirety. The Committee also noted the following, as enumerated in the Resolution:

- An expression of concern that the following elements are lacking in the Policy:
 - a. The policy does not contain a provision requiring the University to send written notices of the Policy and Procedures at least annually to all University stakeholders (including faculty, staff, students and parents of undergraduate

students), including information relevant to the issue of consent and personal responsibility for acts committed while under the influence of alcohol or drugs;

- b. The policy does not include a provision defining the "preponderance of the evidence" burden of proof as requiring "substantial evidence showing that it is more likely than not that a fact is true or an event occurred."
- c. The policy does not include a provision requiring that, in hearings for sexual violence cases, the University shall make arrangements so that either (i) the parties, testifying witnesses and hearing panel members can see and hear each other through the use of live videoconferencing facilities, or (ii) the parties, testifying witnesses and hearing panel members are present in the same room and can hear each other, with the Complainant having the right to testify behind a screen; and
- d. The policy does not include a provision requiring the Administration to provide to the Respondent known exculpatory evidence that is in the Administration's possession.

Professor Garris also drew attention to letters from three members of the PEAF Committee concerning the Interim Policy. These letters, in which Professor Barnhill expressed concerns about due process and the use of a preponderance of the evidence standard of proof in sexual harassment and sexual violence cases, Professor Kyriakopoulos, expressing concerns about due process for faculty members and provisions of the *Faculty Code*, and Professor Wilmarth, who expressed the view that the Second Resolving Clauses of the Resolution are not in conflict with requirements set forth in the "Dear Colleague" letter, are appended to Resolution 13/1 distributed with the Agenda for the May 10th meeting.

Following Professor Garris's report, Professor Rehman, Chair of the Senate Executive Committee took the opportunity to restate, especially for new Senate members, the importance of having a federally compliant Sexual Harassment Policy at GW. As Professor Garris mentioned in his presentation, the federal government, through a "Dear Colleague" letter, initiated this. For those who do not know what this "Dear Colleague" letter is, it is an extremely strong suggestion to change and adapt policy according to federal guidelines under the Civil Rights Act, or else. In this particular case that "or else" would be the removal of all federally funded grants -- i.e. Title IX grants -- if adoption of a compliant, revised policy was not made in full.

Professor Rehman then outlined a number of reasons the Senate should adopt the Resolution and approve the revised Policy. She first provided some raw date, i.e., that one quarter of all female students will be raped before they graduate from college. In addition, 20% of undergraduates are sexually assaulted (including a minority of male students). Sexual assault and sexual harassment are the most underreported crimes on all college campuses.

There is a reason why the federal government is insisting that campuses adopt universal sexual harassment policies. Its main goal is to allow the victims of sexual assault or sexual harassment to report crimes in a manner that is nonthreatening. To repeat -- this

is the most underreported crime on all campuses around the United States. GW is particularly vulnerable since it has a very large number of undergraduates well below the age of 18 and there is also a significant population of high school students on campus during the summer months. If the University does not have a sexual harassment policy compliant with federal guidelines, Professor Rehman stressed again that it would lose all federally funded Title IX grants and simultaneously expose the University to innumerable lawsuits because it does not have a compliant policy in place.

Professor Rehman said she thought that everyone can sense something new on campus in this time of change and opportunity that is hard to put into words. But everybody acknowledges that GW is on the move. Things are changing at the University, and for the better for the most part. The University is trying to redefine education and reposition the institution as a thought leader and in the process hopefully continue improving both its rankings and the caliber of its students.

It is also fitting for GW to be at the forefront of protecting young women and men on campus and provide an environment where sexual violence and sexual harassment is simply not tolerated. It is also a message that GW wants to send out to all students and prospective students that its campus has been made as safe as possible for young women and men against sexual harassment and assault.

There are a few minority voices on campus and in the Senate who believe that perhaps under this federal mandate it is possible that the rights of the accused may be diminished by giving more rights to the victim. To those concerns, Professor Rehman said the following: .

Let me remind everyone again that this is the most underreported crime on all college campuses in the United States.

Secondly, GW has had the exact same policy that the federal government is asking it to formalize in place on an interim basis on campus for the last year. Repeat, the exact same policy.

The University's proximity to and involvement with the federal government is not something to be taken lightly by challenging it on a fundamental and socially important policy implementation. Just as segregation, the women's vote, and gay rights had their day coming, so the tide moves now for sexual harassment. It is not a clock anyone can turn back. More importantly I personally would not like to see GW held up as the poster child in D.C. for turning this clock back.

I cannot fathom anybody objecting to such a federally recommended sexual harassment policy on campus. Saying "no" to this policy and the Senate resolution would send out a very bleak message to our young students on campus.

Professor Rehman then sounded a note of caution, that being if the Senate could not agree on a Resolution that adheres to the letter of the law outlined in the Dear Colleague letter on sexual harassment, the Senate would miss an important opportunity to participate in shared governance and policymaking at the University. This is because the simple fact of the matter is if the Senate cannot agree on a resolution at the meeting that is consistent with what the federal government requires, the University Administration and the Board of Trustees will be forced to adopt the revised Sexual Harassment Policy during the summer without Senate, i.e. faculty, input so that GW does not lose its federal funding.

Professor Rehman concluded by urging a thorough debate about the Policy, but one that does not forget that adoption of this policy is in the best interests of the University, the students, faculty, and all its constituencies. In addition, the revised Policy represents the values that the University intends to abide by when it comes to dealing with this most underreported crime on college campuses today.

A lengthy discussion followed. Professor Simon said he agreed with Professor Rehman that sexual harassment and violence are the most underreported crimes on college campuses. He added that he did not think that this means that the University should ignore basic rights established in the U.S. Constitution, in particular, the right to confront one's accuser in some manner. Professor Simon then asked that the preponderance of the evidence standard of proof specified by the federal government as a requirement in the Policy be defined. Richard Weitzner of the General Counsel's Office confirmed that this standard is generally understood to be "more likely than not."

To allay concerns about notifying the University community about the new Policy, Vice Provost for Diversity and Inclusion Terri Reed briefly described the many ways in which the University would publicize it to University stakeholders. This will include communicating to the community members their rights and responsibilities under the Policy. The information will also be shared in the annual email that is distributed to the campus community at the beginning of the fall semester. It will also be publicized during freshman orientation and the freshman day of service. Additional ways are being explored to share information about the Policy and procedures and communicate the consequences of engaging in prohibited behavior.

With respect to the use of "preponderance of the evidence" as the standard of proof required by the federal government in these policies, Dr. Reed noted that this is the standard that the University has used in all student disciplinary cases since 1998 and in all iterations of the University's Sexual Harassment Policy.

With respect to the PEAF Committee recommendation that a standard of "substantial evidence" be used for these cases, this is already a legal term that has a definition, and inserting this would not clarify, but would rather create confusion about applicable due process.

In terms of the manner in which hearings are conducted, Dr. Reed said she had communicated to the Committee that the University does not try in its disciplinary processes to replicate criminal proceedings. As the goal is to encourage reporting instances of sexual violence rather than discouraging it, the Dear Colleague letter makes clear it is a

best practice that individuals do not have an opportunity to directly cross-examine one another. The procedures used by the University Hearing Board [which hears student disciplinary cases] is that each party in these cases is provided the opportunity to give their statement and the party hearing the statement(s) from an adjoining room has an opportunity to submit questions through the Hearing Board Chair.

In response to a question about the use of video technology in these cases, Dr. Reed said that feedback from a number of institutions that have used it indicated they have now stopped doing so because of technical difficulties and the minimal value added to other means of providing each side the opportunity to respond to evidence presented at the hearing. With respect to the idea that the University should be required to provide exculpatory evidence to respondents in these cases, Dr. Reed said the Administration has deferred to the advice of the General Counsel's office. Exculpatory evidence is a term used in criminal proceedings and use of it in the Policy puts a burden on the University to function as it were a body that has the ability to subpoena information in harassment and violence cases, which it does not. What is required in the Dear Colleague letter is that every party who is involved in one of these cases be provided equal access to information to be shared at the hearing. If there is any evidence that would exonerate the accused, that information would go to the Hearing Board.

Professor Costello said that she was not in favor of the second Resolving Clause because she thought it unfairly supports the respondent at the cost of intimidating the complainant, resulting in a process that is not equitable to both parties.

Professor Yezer said would like to see the Resolution amended by striking 2 b and 2 d of the Second Resolving Clause. He added that it appeared to him that the preponderance of the evidence standard was already quite clear in the law, and needed no elaboration. He invited comments from the Senate on this proposal.

Professor Garris requested and was granted the privilege of the floor for Professor Wilmarth, a law faculty member and a member of the PEAF Committee. Professor Wilmarth said that the Committee had carefully considered the issue of the appropriate standard of proof for a finding of responsibility in sexual assault cases. As Professor Garris had observed, in many of these cases there would be eyewitness testimony by both parties and perhaps not much additional evidence. Professor Wilmarth explained that the sexual assault cases the Committee learned about from briefings by the Administration were all cases that occurred among students. Over the last 12 years, there have been no cases of sexual assault involving faculty members. The cases the Committee was told about generally involved situations in which both students to varying degrees were under the influence of either alcohol or other intoxicants. Professor Wilmarth understood that, under the University's current rules for sexual assault cases, the use of alcohol or drugs would generally vitiate consent for the accuser, but would NOT vitiate responsibility for the respondent. Because of this differential treatment of the issue of intoxication and the likelihood that there might be very little corroborating evidence besides the eyewitness testimony of the parties, a majority of the PEAF Committee thought it would be appropriate for the hearing panel to consider whether there was substantial evidence indicating it was more likely than not that sexual assault occurred. Substantial evidence would be sufficient evidence to provide a rational basis for a hearing panel's decision. It

was felt that this standard of proof would not conflict with the Dear Colleague letter, which stated that a standard of clear and convincing evidence – that something is extremely likely to be true – would not be acceptable.

Turning to the issue of exculpatory evidence, Professor Wilmarth said that there is nothing in the Dear Colleague letter that even mentions exculpatory evidence. The issue is one of essential fairness. If the University knows that it is in possession of exculpatory evidence -- i.e. evidence that would tend to show that the accused is not guilty or not responsible -- the University should provide that evidence to the accused as a matter of fundamental fairness. Under the PEAF Committee's proposed resolution, the University would not be under any obligation to discover or turn over exculpatory evidence to the accused unless it actually knows that such evidence exists.

Following this discussion, Professor Yezer moved to amend the Resolution by striking 2 b and 2 d of the Second Resolving Clause and the motion was seconded by many.

Discussion followed on the amendment. Speaking as a long-serving member of the Committee on the Judicial System, which serves as the appeals panel for Hearing Board cases, Professor Castleberry spoke in favor of the amendment. He reminded everyone that these cases are not trials, but rather administrative hearings. Due process rights extend to both the accuser and the respondent. This system has served the University well over the years, and affords the Hearing Board ample opportunity to evaluate the information that is brought forward. In addition there is an appeals process if there IS additional or new data that comes to light that was not considered by the Hearing Board. Professor Castleberry concluded by saying that his greatest concern is the fact that in the military, society in general, and in colleges and universities, sexual harassment and violence are underreported. People are reluctant to file complaints because very often their character and their history is examined and impugned in the course of proceedings that are conducted more like criminal trials than fundamentally fair administrative processes. The University needs to support the Policy under consideration, and fulfill its responsibility to the campus community, particularly women, who are the most frequent victims of sexual harassment and violence.

Professor Swaine inquired about the scope of the appellate process for these student-student cases. Clearly the scope is limited. As an example, Mr. Weitzner said that if there is relevant evidence that comes to light that was not available at the time of the hearing, the appeals board might consider that.

In response to a question about the relevance of Professor Swaine's comments to the amendment under consideration, Professor Swaine said that if it were easier to introduce newly discovered evidence during the appellate process, he might be less inclined to require the disclosure of exculpatory evidence during the initial proceeding – and, more generally, that if the standard of review were less deferential as to any initial factual findings or conclusions, he would be less concerned about adopting a lower standard of proof at the initial hearing stage.

Further discussion followed. Professor Garris spoke in opposition to the amendment, pointing out that these in Resolving Clause 2 merely put the University Administration on notice that these are issues of concern. They do now alter the policy in

any way and no request is being made for action on them. It appears from discussions with the Administration that these things are in fact done, however, there is no inclination to include them in the Policy itself.

From the perspective of someone who has for more than twenty years worked in treating victims of sexual violence, Professor Marotta-Walters spoke against the amendment and in favor of adopting Resolution 13/1 with all of its original Resolving Clauses intact.

Professor Downes said that, since preponderance of the evidence is defined as showing that it is more likely than not that a fact is true or an event occurred, whether people would be comfortable removing the phrase "substantial evidence" from 2 b), thus allowing that part of the Second Resolving Clause to remain. Professor Acquaviva indicated she would be strongly in favor this proposal.

The question was called and a vote was taken to close debate. With 21 in favor, debate on the amendment was closed. A vote was taken on Professor Yezer's motion to amend, by removing 2 b) and 2 d) of the Second Resolving Clause. The motion to amend was approved.

Professor Lantz moved that the first sentence of the Second Resolving Clause be amended by changing the words "The faculty express concern" to "Some faculty express concern" and the motion was seconded by Professor Helgert. There was no discussion on this amendment, and the question was called. At the suggestion of the Parliamentarian, President Knapp requested and received unanimous consent to have 2 c) of the Second Resolving Clause be designed 2 b) [due to the amendment removing 2 b) and 2 d). A vote was taken, and Resolution 13/1 was adopted as amended. (Resolution 13/1 is included with these minutes. The attachments to the Resolution were not amended and are identical to those circulated with the agenda for the May 10th meeting at this link:

http://www.gwu.edu/~facsen/faculty_senate/pdf/Agenda5-10-13.pdf

(Letters from PEAF Committee members referenced in the minutes can be found on pages 52-56 of the attachments.)

INTRODUCTION OF RESOLUTIONS

No resolutions were introduced.

GENERAL BUSINESS

I. APPROVAL OF DATES FOR REGULAR SENATE MEETINGS IN THE 2013-14 SESSION RECOMMENDED BY THE EXECUTIVE COMMITTEE

September 13, 2013	January 10, 2014
October 11, 2013	February 14, 2014
November 8, 2013	March 14, 2014
December 13, 2013	April 11, 2014
	May 9, 2014

The calendar was approved.

II. NOMINATIONS FOR ELECTION OF CHAIRS AND MEMBERS OF FACULTY SENATE STANDING COMMITTEES FOR THE 2013-14 SESSION

The Committee list dated May 10, 2013 distributed at the meeting was approved. The following faculty members were also elected: Appointment, Salary, and Promotion Policies (including Fringe Benefits): Professor Miriam Galston; University and Urban Affairs: Professor Leslie Jacobson.

III. NOMINATIONS FOR APPOINTMENT BY THE PRESIDENT OF FACULTY MEMBERS TO ADMINISTRATIVE COMMITTEES:

Joint Committee of Faculty and Students: Faculty Co-Chair: Jennifer Frey; Members: Michael Castleberry, Hartmut Doebel, Vivek Jain, Megan Leftwich, Kim Roddis, and Alan Wade

Marvin Center Governing Board: Dana Tai Soon Burgess, Carl Gudenius, Leonard Friedman, and Cory Jorgensen

Marvin Center Program Board: Robert Shepherd

Student Grievance Review Committee: Kenneth Harwood, Rebecca Katz, Susan LeLacheur, Megan C. Leftwich, Blaine Parrish, Amira Roess, Richard Ruth, Julie Ryan, Edward Robinson, and Beverly Westerman

University Hearing Board: Jane Thorpe

All of the nominations were approved.

IV. NOMINATIONS FOR APPOINTMENT OF FACULTY MEMBERS BY THE BOARD OF TRUSTEES TO TRUSTEES' COMMITTEES

Committee on Advancement: Joseph J. Cordes
Committee on Academic Affairs: Scheherazade S. Rehman
Committee on External Affairs: Kathryn Newcomer
Committee on Student Affairs: Jennifer Frey

The nominations were approved.

V. ANNUAL REPORTS OF SENATE STANDING COMMITTEES

The report of the Physical Facilities Committee was distributed with the agenda for the meeting. Annual reports from the Appointment, Salary and Promotion Policies Committee and the Committee on Professional Ethics and Academic Freedom were distributed at the meeting. Those reports are included with these minutes.

VI. REPORT OF THE EXECUTIVE COMMITTEE

Professor Scheherazade Rehman, Senate Executive Committee Chair, presented the report which is included with these minutes.

VII. PROVOST'S REMARKS

Due to the lateness of the hour, the Provost made no remarks.

VIII. CHAIR'S REMARKS

President Knapp commented on the upcoming commencement scheduled for Sunday, May 19 on the National Mall, the usual venue. Approximately 25,000 people are expected to attend, and it is always great when there is a significant faculty turnout marching along with GW graduates on this important occasion. The ceremony itself has been fine-tuned and it now lasts well under an hour, so attendees do not have to worry about baking in the sun, if there is sun, or soaking in the rain if there is rain. Of course, the worry every year is lightning, which means that the Park Police call for evacuation of the Mall. The University has backup plans in place should that occur, using the local ABC network to cover the graduation from various sites as there is no space large enough to host the entire crowd anywhere on campus.

President Knapp said he believed this was the first time in his experience at GW that all three of the honorary degree recipients are University alumni. They are: Harriet Fulbright, CCAS graduate and a distinguished leader in international education. Thad Allen, formerly one of Professor Newcomer's students, who served as Coast Guard Commandant, and later Incident Commander for the Deepwater Horizon oil spill. He was also the first recipient of GW's Colin Powell Public Service Award. He is an extraordinary leader who has spoken on campus on a number of occasions, and has taught at GW as well. The third honorary degree recipient is Kerry Washington, a CCAS graduate who created her own major in anthropology, psychology and theater to prepare herself for an acting career. In that career she has been very successful, both in motion pictures as well as on television, where she currently plays the lead in the popular series, Scandal. In addition to these accomplishments, she has also become a terrific leader in the arts community, serving on the President's Commission on the Arts. She has also been an eloquent spokesperson for the arts and humanities as well as for the University. As she also happens to have a film coming out soon, she's been on the circuit talking about it. And every time she does that she spends time talking about George Washington University. Although the President said he did not see this live, someone sent him a clip of Ms. Washington on the David Letterman show. He said he thought it is the first time in the history of late night television that somebody spent ten minutes talking about a commencement address. And it was, of course, about the commencement address she would deliver at GW.

In conclusion, the President said he wanted to join Professor Rehman in thanking Senators for the time they devote to service on the Faculty Senate. He also wished those present a productive and restful summer break and added that he looked forward to seeing everyone in the fall.

BRIEF STATEMENTS (AND QUESTIONS)

Professor Castleberry advised the Senate that Professors Jay Shotel and Lynda West in the Graduate School of Education and Human Development would be retiring. As is customary, tributes are prepared when faculty members who have served on the Faculty Senate retire. Professor Castleberry requested that tributes to both of these individuals be entered into the record of the meeting and published with the meeting minutes. (The tributes are included with these minutes.)

There were no other brief statements or questions.

ADJOURNMENT

Upon motion made and seconded the meeting was adjourned at 4:55 p.m.

Elizabeth A. Amundson
Elizabeth A. Amundson
Secretary

A RESOLUTION TO RECOMMEND ADOPTION OF THE SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES (13/1)

WHEREAS, the members of the George Washington University Faculty Senate believe that students, faculty, and staff have a right to work and study in an atmosphere free from sexual harassment and sexual violence; and

WHEREAS, the members of the George Washington University Faculty Senate recognize the importance of fostering a campus climate in which sexual harassment and sexual violence is prevented, reported, and adjudicated appropriately and fairly; and

WHEREAS, in Resolution 05/1, adopted on May 13, 2005, The Faculty Senate endorsed the Policy and Procedures for Sexual harassment which was proposed by the *Ad Hoc* University Committee on the Sexual Harassment Policy and Procedures; and,

WHEREAS, in Resolution 05/1, the Faculty Senate determined that the endorsed Sexual Harassment Policy and Procedures satisfied the following objectives: (i) prohibiting sexual harassment by any student, staff member, faculty member, or other persons in the University community; (ii) encouraging reporting of sexual harassment before it becomes severe or pervasive; (iii) identifying persons in the University Administration to whom incidents of sexual harassment may be reported; (iv) prohibiting retaliation against persons who bring sexual harassment complaints; (v) assuring confidentiality to the full extent consistent with the need to resolve complaints of sexual harassment appropriately and fairly; (vi) assuring that allegations of sexual harassment will be properly, thoroughly, and impartially addressed with appropriate regard for the interests of the persons involved and principles of fairness and due process; and, (vii) providing for appropriate corrective action to be taken against persons who have engaged in sexual harassment; and,

WHEREAS, from May 2005 to May 2012, while the Policy and Procedures for Sexual Harassment endorsed by Resolution 05/1 continued in operation, the University Administration did not inform the Faculty Senate of any incidents where the Policy and Procedures were found to have been inadequate

WHEREAS, the Obama administration, under the leadership of Vice President Biden, has taken a very proactive position on Violence Against Women¹ and has instructed the Department of Education, Office for Civil Rights, to provide further guidance to Universities through a "Dear Colleague Letter" under Title IX of the Civil Rights Act of 1964 and its amendments.

WHEREAS, the Dear Colleague Letter states:

"Education has long been recognized as the great equalizer in America. The U.S. Department of Education and its Office for Civil Rights (OCR) believe that providing all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students' right to receive an education free from discrimination and, in the case of sexual violence, is a crime."

WHEREAS, the "Dear Colleague Letter" further states:

"The statistics on sexual violence are both deeply troubling and a call to action for the nation. A report prepared for the National Institute of Justice found that about 1 in 5 women are victims of completed or attempted sexual assault while in college.³ The report also found that approximately 6.1 percent of males were victims of completed or attempted sexual assault during college.⁴ According to data collected under the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f), in 2009, college campuses reported nearly 3,300 forcible sex offenses as defined by the Clery Act.⁵ This problem is not limited to college. During the 2007-2008 school year, there were 800 reported incidents of rape and attempted rape and 3,800 reported incidents of other sexual batteries at public high schools.⁶ Additionally, the likelihood that a woman with intellectual disabilities will be sexually assaulted is estimated to be significantly higher than the general population.⁷ The Department is deeply concerned about this problem and is committed to ensuring that all students feel safe in their school, so that they have the opportunity to benefit fully from the school's programs and activities."

1

"Under the leadership of then-Senator Joe Biden, Congress recognized the severity of violence against women and our need for a national strategy with the enactment of the Violence Against Women Act in 1994. This landmark federal legislation's comprehensive approach to violence against women combined tough new provisions to hold offenders accountable with programs to provide services for the victims of such violence." [White House Fact Sheet]

And,

WHEREAS, the GWU policy adopted through resolution 05/1 has been determined by attorneys from the U. S. Department of Education, Office for Civil Rights, to be deficient under TITLE IX. Specifically, the policy is required to: (i) convey the kinds of conduct that constitutes sexual harassment, including sexual assault and other forms of sexual violence; (ii) clarify that requiring the parties to mediate is not an option for resolving sexual assault complaints; (iii) provide equitable processes for both parties, including similar and timely access to any information used at a hearing; and, (d) designate reasonable but specific time frames for the major stages of the complaint; and,

WHEREAS, The penalty for failure to comply with Title IX in the most extreme circumstances can include the termination of all or part of an institution's federal funding, including grants, subsidies, Pell grants, scholarships and other program funds from the federal government; and,

WHEREAS, in addition to the loss of federal funds, universities may be sued by those seeking redress for violations of Title IX; and,

WHEREAS, GWU administrators and counsel have expressed very strong concern about jeopardizing all GWU federal funding by deviating from the spirit of the "Dear Colleague Letter" and making the university vulnerable to lawsuits under violations of Title IX; and,

WHEREAS, the Faculty Senate Committee on Professional Ethics and Academic Freedom (PEAF) sent a proposed revision of the policy which was agreeable to the Department of Education to a wide spectrum of the GWU community requesting input which resulted in an excellent and substantive response;

WHEREAS, based on the response from the university community, PEAF recommended 21 modifications of the policy, from which the administration accepted most of the recommendation and provided satisfactory explanations for others; and,

WHEREAS, the members of the George Washington University Faculty Senate acknowledge the efforts made by the Office of the Vice Provost for Diversity and Inclusion to revise the interim policy based on recommendations provided to them by the Professional Ethics and Academic Freedom Subcommittee on the Interim Policy on Sexual Harassment and Sexual Violence; and

WHEREAS, members of the PEAF Committee requested four additional changes from the Office of the Vice Provost for Diversity and Inclusion, but those changes were not accepted by that Office:

WHEREAS, the PEAF Committee has concluded that those four requested changes, as described in the second resolving clause of this Resolution, are essential to guarantee fundamental fairness in the operation of the proposed SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES while allowing the University to comply fully wth the "Dear Colleague Letter";

WHEREAS, the Faculty Senate recognizes that, as provided in Article IX.A. of the *Faculty Code*, the Faculty Senate plays an essential role in the governance of the University by participating with the Administration and the Board of Trustees in "the formulation of policy and planning decisions affecting the quality of education and life at the University," including policies such as the proposed SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES

NOW, THEREFORE, BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

1. Recommends that the "SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES" should be adopted as University policy; and,
2. Some Faculty express concern that the following elements are lacking in the policy:
 - a. The policy does not contain a provision requiring the University to send written notices of the Policy and Procedures at least annually to all University stakeholders (including faculty, staff, students and parents of undergraduate students), including information relevant to the issue of consent and personal responsibility for acts committed while under the influence of alcohol or drugs;
 - b. The policy does not include a provision requiring that, in hearings for sexual violence cases, the University shall make arrangements so that either (i) the parties, testifying witnesses and hearing panel members can see and hear each other through the use of live videoconferencing facilities, or (b) the parties, testifying witnesses and hearing panel members are present in the same room and can hear each other, with the Complainant having the right to testify behind a screen; and

ATTACHMENTS:

- i. "SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES".
- ii. "Dear Colleague Letter" of Office for Civil Rights, Department of Education, April 4, 2011.
- iii. Comments of Professor Theodore Barnhill, SB
- iv. Comments of Professor Nicholas Kyriakopoulos, SEAS
- v. Comments of Professor Arthur Wilmarth, Law

Faculty Senate Committee on Professional Ethics and Academic Freedom

Charles A. Garris, Jr., Chair

May 2, 2013

Adopted, as amended, May 10, 2013

A RESOLUTION TO RECOMMEND ADOPTION OF THE SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES (13/1)

Faculty Senate Committee on Professional
Ethics and Academic Freedom

May 10, 2013

Faculty Code

IX. FACULTY ROLE IN UNIVERSITY DECISION MAKING

Section A.

- The regular, active-status faculty shares with the officers of administration the responsibility for effective operation of the departments and schools and the University as a whole.
- The regular, active-status faculty also participates in the formulation of policy and planning decisions affecting the quality of education and life at the University.

Why Do we need a Policy on Sexual Harassment & Sexual Violence

- “The George Washington University reaffirms its commitment to maintaining a positive climate for study and work in which individuals are judged solely on relevant factors, such as ability and performance, and are free to pursue their academic and work activities in an atmosphere that is free from coercion and intimidation. Sexual harassment is inimical to such an atmosphere and will not be tolerated” [Faculty Senate Resolution 04/3]

Faculty Senate Objectives for Policy (Resolution 05/1)

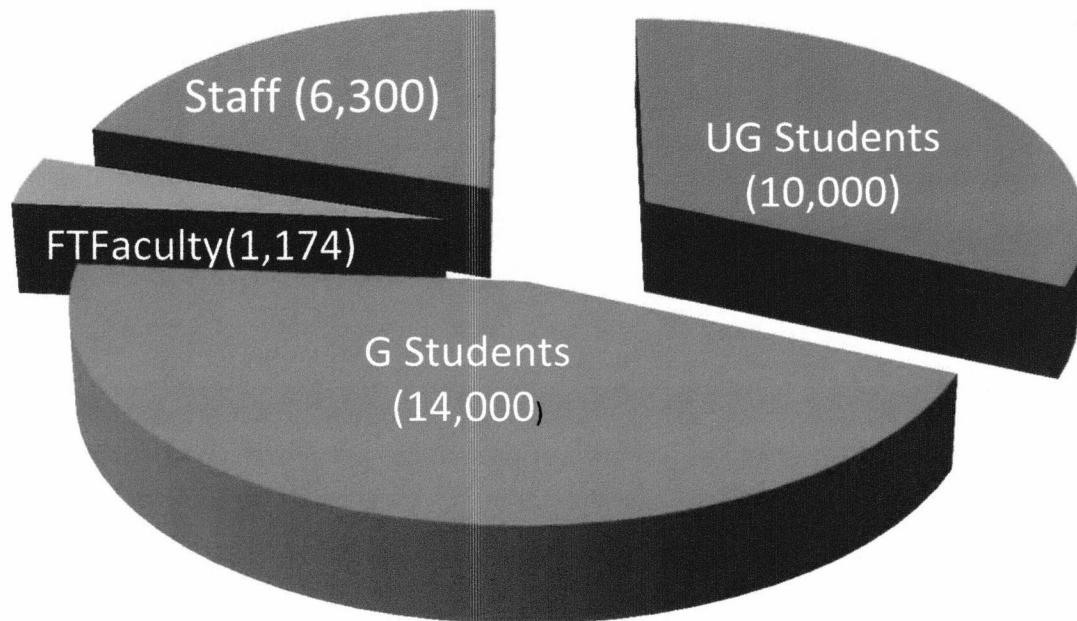
1. **Prohibiting sexual harassment** by any student, staff member, faculty member, or other person in the University Community;
2. **Encouraging reporting** of sexual harassment before it becomes severe or pervasive;
3. Identifying **persons in the University administration** to whom incidents of sexual harassment may be reported;
4. Prohibiting **retaliation** against persons who bring sexual harassment complaints;
5. Assuring **confidentiality** to the full extent consistent with the need to resolve complaints of sexual harassment appropriately and fairly;
6. Assuring that allegations of sexual harassment will be **promptly, thoroughly, and impartially addressed** with appropriate regard for the interests of the persons involved and principles of **fairness and due process**;
7. Providing for appropriate **corrective action** to be taken against persons who have engaged in sexual harassment.

Who May File a Complaint?

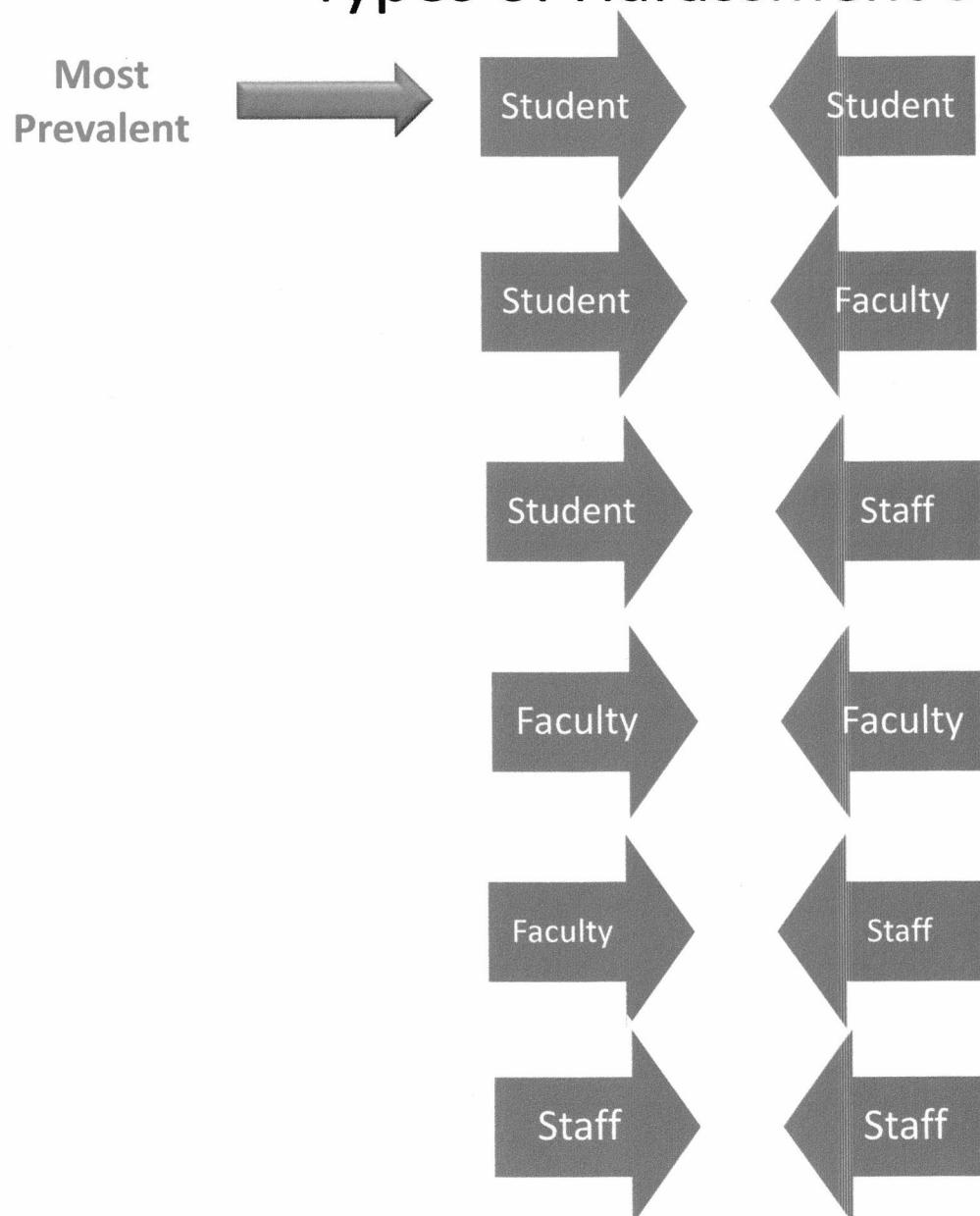
- Any member of the university community who believes that he or she has been sexually harassed by a university employee, student, or third party in connection with any university program or activity.
 - Does not apply to individuals outside GWU community.

GWU Community

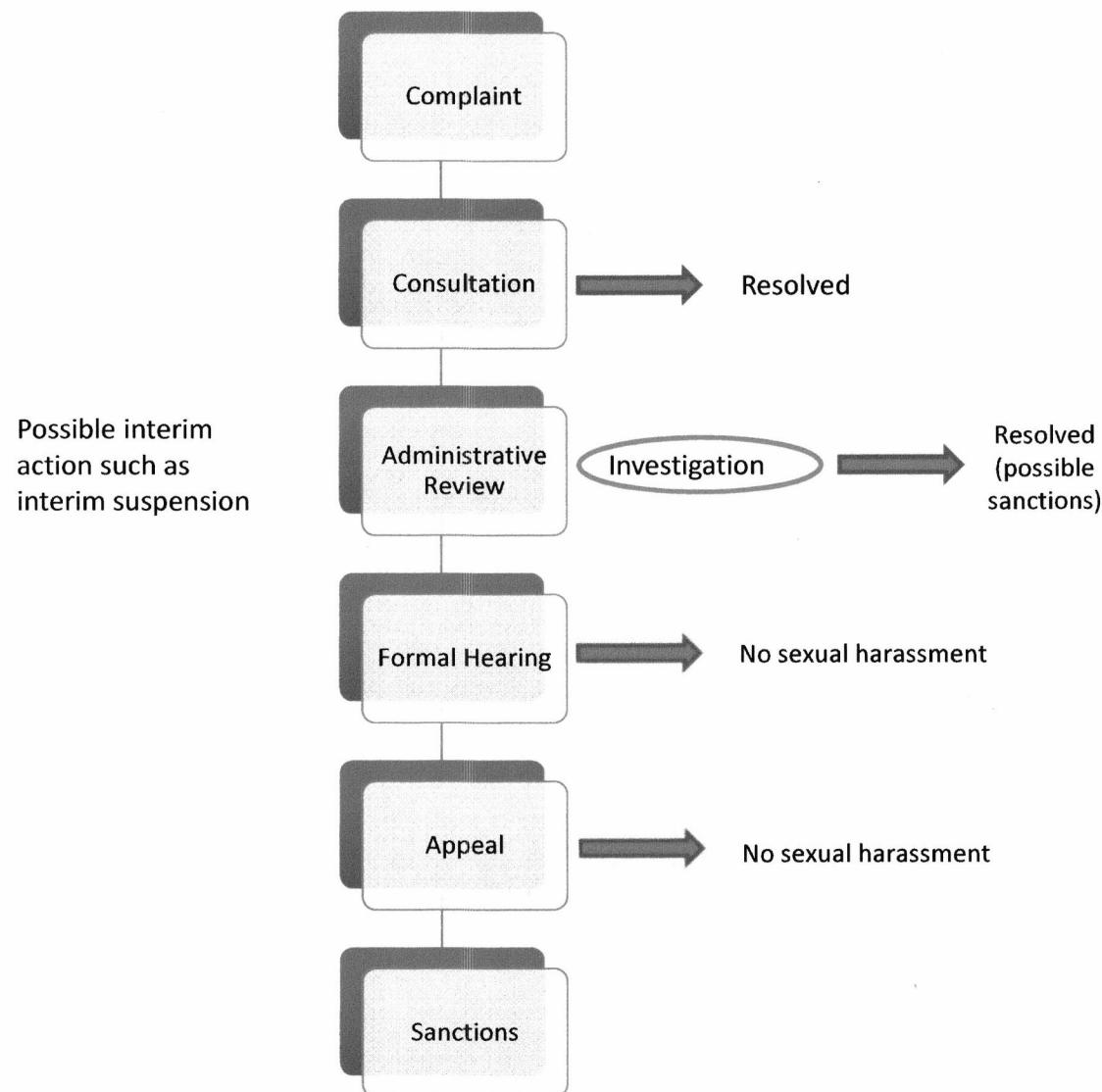
(Approximately 32,000 people)



Types of Harassment Situations



Complaint Process (Since 1998)



Formal Hearing Process

Student-
Student

Violation of
Code of Student Conduct

Hearing Board

5 full-time students selected from a pool of 10 full-time students. If alleged misconduct may result in suspension or expulsion, a faculty or administrator is included.

Faculty-Student
Faculty-Faculty
Faculty-Staff
Staff-Staff
Staff-Student

Sexual Harassment & Sexual Violence Policy and Procedures
Appendix C; Section 2

Special Panel

6 member panel selected by lot by VP HR from pool of 18.
In pool, 6 faculty, 6 staff, 6 students. 3 panel members from same status group as Respondant, 3 panel members from same status group as Complainant.

Process for Faculty under Faculty Code

- Sexual Harassment & Sexual Violence Policy and Procedures apply through Sanction.
- Under Faculty Code, Faculty have a right to file a grievance under .
 - To maintain a grievance, the faculty member **must allege** that he or she has suffered a substantial injury resulting from violation of rights or privileges concerning academic freedom, research, or other scholarly activities, tenure, promotion, reappointment, dismissal, or sabbatical or other leave, arising from:
 - Acts of discrimination
 - Failure to comply with the Faculty Code, or Faculty Handbook, or other rules, regulations, and procedures of GW.
 - Arbitrary and capricious actions on behalf of the University, or arbitrary and capricious applications of federal or local statutes and regulations
 - Retaliation for exercise of Code Protected Rights.
 - In rendering its decision, the Hearing Committee **shall not substitute its judgment for that of the maker of the decision being challenged**.
 - Hearing Committee shall determine whether the Grievant has established by **clear and convincing evidence** that he or she has suffered a substantial injury.

Critical Times

Student-Student Complaints

- Complaints must be filed within **2 years** of when the harassment occurred.
- Within **30 days** of complaint, SRR or Response Coordinator will conduct an adequate, reliable, and impartial **investigation** of the alleged harassment.
- While investigation is underway, the university may take **interim action** in response to a complaint, if appropriate.
- Within **30 days** of completion of Administrative Review, SRR will determine whether to charge the Respondent and will provide written explanation to both Complainant & Respondent.
- If complainant disagrees with decision of Administrative Review, Complainant can file an **appeal within 5 business days** of notice. SRR will provide appeal to Respondent who must file a response to the appeal within 5 business days of date appeal received. Evaluation of appeal within 20 days of receipt of appeal.
- SRR attempts to complete reach its decision within 45 days of appeal.

Recent History of Policy

- **December 11, 1998:** The Faculty Senate endorsed the Interim Policy and Procedures Governing Sexual Harassment Complaints and recommended the formation of an ad hoc committee to review the interim policy and procedures and make recommendations for amendment; (98/5)
- **December 11, 1998 – September 9, 2005,** Interim Policy in effect Discussions continued between administration, ad hoc committee, and PEAF.
- **September 9, 2005:** Faculty Senate passes resolution 05/1 which created a new Sexual Harassment Policy and Procedures based on the work of a joint ad hoc committee of faculty and administration charged with preparing a proposed new policy. Passed by BoT.
- **April 4, 2011:** Office of Civil Rights, Department of Education writes “Dear Colleague Letter” providing guidance on university sexual harassment policies.
- **2011** Title IX Complaint against GW. GW signs letter of consent.
- May 2011-May 2012 Meetings between GW administration and Department of Education attorneys reveals inadequacies in current GW policy according to OCR/DoE.
- **August 24, 2012** Administration presents to Executive Committee a draft amended Sexual Harassment & Sexual Violence Policy & Procedures with request to approve it on an interim basis for the 2012 Academic Year. The draft was the product of an administrative working group.
- **September 14, 2012:** Faculty Senate passes “A RESOLUTION TO CONFIRM EXECUTIVE COMMITTEE’S EMERGENCY APPROVAL OF AN INTERIM UNIVERSITY SEXUAL HARASSMENT POLICY.” (12/3) Interim policy approved for 2012-2013 Academic Year; policy will be reviewed by Senate Committees, followed by final consideration by Faculty Senate.
- **September, 2012:** Executive Committee requests PEAF to study the interim policy.

Changes Required by OCR/DoE to 2005 Policy

1. Better **convey the kinds of conduct that constitutes sexual harassment, including sexual assault and other forms of sexual violence;**
2. Clarify that requiring the parties to **mediate is not an option** for resolving sexual assault complaints;
3. Provide equitable processes for both parties, including **similar and timely access to any information used at a hearing;**
4. Designate reasonable but specific **time frames** for the major stages of the complaint.

Actions Taken by PEAF

- Meetings with Administration:
 - Dr. Terri Reed, Vice Provost of Diversity and Inclusion
 - Mr. Richard Weitzner, Associate General Counsel
 - Dr. Dianne Martin, Vice Provost for Faculty
 - Mr. Darrell L. Darnell, Sr. Assoc. VP, Safety & Security
 - Ms. Tara W. Pereira, Deputy Title IX Coordinator
- Sent Policy for Review to a wide spectrum of the university community with a request provide advice and analysis.

PEAF Reviewers of Policy

Committee on the Status of Women Faculty and Librarians

Natalie B. Milman, Associate Professor, GSEHD

Rob Brady; Interim Director of EEO Office

Ellen Dawson; Professor, School of Nursing

Laird Kirkpatrick; Professor, Law School

Greg Maggs; Professor, Law School

Paul Peyser; Associate Professor of Finance, GWSB

Michael Selmi; Professor, Law School

Jonathon Turley; Professor, Law School

Joe Velez; Operations Manager, School of Nursing

Catherine Williamson; Director, Distance Education & Military
Programs

Art Wilmarth, Professor, Law School

PEAF Activities after Review

- PEAF Discussed all recommendations from review process.
- December 13, 2012, Submitted to Dr. Reed a list of 23 recommended changes.
- March 8, 2013. Dr. Reed provided administrative response.
 - Accepted 18 proposed changes
 - Declined 5 with explanations.
- April 1 & April 11, PEAF Suggested further changes.
- April 26: Administration declines further changes.
- May 10, 2013 : Present resolution to Faculty Senate

PEAF Conclusions

- Sexual Harassment and Sexual Violence Policy should be adopted as university policy.
 - Policy has been used since 1998 with continuous improvement.
 - Policy appears to have been well administered during this period.
 - PEAF does NOT endorse all of the provisions of the policy but believes the policy strikes an adequate balance of requirements.
- Majority of PEAF is concerned that wording is absent from policy that would be essential to guarantee fundamental fairness in the operation of the proposed policy.

Elements Lacking in Language of Policy

- The policy does not contain a provision requiring the University to send **written notices of the Policy and Procedures at least annually** to all University stakeholders (including faculty, staff, students and parents of undergraduate students), including information relevant to the issue of consent and personal responsibility for acts committed while under the influence of alcohol or drugs;
- The policy does not include a provision defining the "**preponderance of the evidence**" burden of proof as requiring "substantial evidence showing that it is more likely than not that a fact is true or an event occurred."
- The policy does not include a provision requiring that, in hearings for sexual violence cases, the University shall make arrangements so that either (a) the parties, testifying witnesses and hearing panel members can see and hear each other through the use of live **videoconferencing** facilities, **or** (b) the parties, testifying witnesses and hearing panel members are present in the same room and can hear each other, with the Complainant having the right to testify behind a screen; and
- The policy does not include a provision requiring the Administration to provide to the Respondent known **exculpatory evidence** that is in the Administration's possession.

Legal Definitions

- **Preponderance of Evidence:**
 - “The greater weight of the evidence; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other. This is the burden of proof at a civil trial, in which a jury is instructed to find for the party that, on the whole, has the stronger evidence, however slight that edge might be.”[Black’s Law Dictionary, 7th Ed., 1999]
 - “ . . . the school must use a ‘preponderance of evidence standard’ (i.e., ***it is more likely than not that sexual harassment or violence occurred.***” [Dear Colleague Letter, April 4, 2011]
- **Substantial Evidence:** Evidence that a reasonable mind would accept as adequate to support a conclusion; evidence beyond a scintilla. .”[Black’s Law Dictionary, 7th Ed., 1999]

Comments on Policy Use of Preponderance of Evidence Standard

- **PRINCIPLE:** “A person is innocent until proven guilty”
- **PROBLEM:** What **QUANTITY** of evidence is needed to prove guilt???
 - “Preponderance of Evidence” standard does **NOT** specify.
 - Policy **might** allow a person to be found guilty of sexual harassment on very flimsy evidence (“*he said – she said*”)
- **SOLUTION:** Include a definition in the policy stating “**preponderance of evidence**’ **means** ‘substantial evidence showing that it is more likely than not that a fact is true or an event occurred.”
- **NOTE:** Preponderance of Evidence standard has been in use for sexual harassment at GWU since 2005. PEAf has no evidence that it has been unfairly applied.

Title IX

- *“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”*
[Education Amendments of 1972 to the Civil Rights act of 1964]
- Courts have ruled that **Sexual Harassment** is a form of exclusion on the basis of sex and covered under Title IX.
- Title IX administered by Office of Civil Rights, Department of Education

“Dear Colleague Letter”

- Launched April 4, 2011 by Vice President Biden.
- “Vice President Joseph R. Biden Jr. is urging the nation's schools and colleges to do more to prevent sexual violence, saying campus sex crimes often go unreported because victims fear that universities will not discipline offenders. . . . Mr. Biden's New Hampshire visit is part of a broader effort by the Obama administration to draw attention to sexual violence and ways to prevent it, officials said.” [NY Times, April 4, 2011]

- “The statistics on sexual violence are both deeply troubling and a call to action for the nation. A report prepared for the National Institute of Justice found that about 1 in 5 women are victims of completed or attempted sexual assault while in college. The report also found that approximately 6.1 percent of males were victims of completed or attempted sexual assault during college. According to data collected under the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f), in 2009, college campuses reported nearly 3,300 forcible sex offenses as defined by the Clery Act. . . The Department is deeply concerned about this problem and is committed to ensuring that all students feel safe in their school, so that they have the opportunity to benefit fully from the school’s programs and activities.”

Unreported Sexual Harassment

“Dear Colleague Letter”

“Dear Colleague Letter”

- The “Dear Colleague Letter” is a “significant guidance” document to assist universities in meeting their obligations under the civil rights laws.
- “Dear Colleague Letter” is a 14 page document detailing provisions required by OCR/DoT in university sexual harassment policies.
- The term “sexual harassment” includes “sexual violence.”

“Dear Colleague Letter”

“Preponderance of Evidence Standard”

- “As noted above, the Title IX regulation requires schools to provide **equitable grievance procedures**. As part of these procedures, schools generally conduct investigations and **hearings to determine whether sexual harassment or violence occurred**. In addressing complaints filed with OCR under Title IX, OCR reviews a school’s procedures to determine whether the school is using a **preponderance of the evidence standard** to evaluate complaints. The Supreme Court has applied a preponderance of the evidence standard in civil litigation involving discrimination under Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §§ 2000e *et seq.* Like Title VII, **OCR also uses a preponderance of the evidence standard when it resolves complaints against recipients**. . . . OCR also uses a preponderance of evidence standard in its **fund termination** administrative hearings.”

“Dear Colleague Letter”

“Preponderance of Evidence Standard”

- Challenging OCR/DoD on the “preponderance of evidence” standard is **NOT** a good course of action for GWU.
 - Resistance could set GWU up to be a scape-goat for OCR/DoE to put other universities in line.
- No wide agreement on Preponderance of Evidence Standard:
 - Harvard, Princeton and other universities consider the “preponderance of evidence” standard unfair for sexual violence cases where a guilty verdict with expulsion can destroy a person’s future.
 - GWU University Committee on Status of Women Faculty and Librarians said: **“Sexual Violence seems “tacked on”**: A general concern of the UCSWFL is that “sexual violence” seems to be “tacked on” to this policy dealing with “sexual harassment.” For instance, several other institutions have “sexual misconduct and assault” policies, separate from their sexual harassment policy. See for instance: Wesleyan’s website about sexual misconduct.”
 - Two GWU legal scholar reviewers opined that the “preponderance of evidence” standard is unfair for sexual violence but may be acceptable for lesser forms of harassment.
 - The AAUP, in a letter of August 18, 2011, stated: “Given the seriousness of allegations of harassment and sexual violence and the potential for accusations, even false ones, to ruin a faculty member’s career, we believe that the “clear and convincing evidence” standard of evidence is more appropriate than the ‘preponderance of evidence’ standard.”

Attachments to Resolution

- Attachments ii. – v. to the Resolution are only to better inform the Faculty Senate. Voting in favor of the resolution in **NO WAY** endorses the issues and policies outlined in these documents.
 - ii. “Dear Colleague Letter”
 - iii. Comments of Professor Barnhill
 - Concerns about due process and the “POE standard”
 - iv. Comments of Professor Kyriakopoulos
 - Concerns about due process for Faculty & Faculty Code.
 - v. Comments of Professor Wilmarth
 - Discussion showing that the 2nd resolving clause of the Resolution does NOT conflict with the “Dear Colleague Letter”

Resolving Clauses of Resolution

1. The Faculty Senate recommends "SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES" should be adopted as University policy.
2. The Faculty expresses concern that the following elements are lacking in the policy:
 - a. The policy does not contain a provision requiring the University to send written notices of the Policy and Procedures at least annually to all University stakeholders (including faculty, staff, students and parents of undergraduate students), including information relevant to the issue of consent and personal responsibility for acts committed while under the influence of alcohol or drugs;
 - b. The policy does not include a provision defining the "preponderance of the evidence" burden of proof as requiring "substantial evidence showing that it is more likely than not that a fact is true or an event occurred."
 - c. The policy does not include a provision requiring that, in hearings for sexual violence cases, the University shall make arrangements so that either (i) the parties, testifying witnesses and hearing panel members can see and hear each other through the use of live videoconferencing facilities, or (ii) the parties, testifying witnesses and hearing panel members are present in the same room and can hear each other, with the Complainant having the right to testify behind a screen; and
 - d. The policy does not include a provision requiring the Administration to provide to the Respondent known exculpatory evidence that is in the Administration's possession.

Majority of PEAF (by vote of 10 yes, 2 no, 2 abstain) recommends that the Faculty Senate vote in favor of Resolution (13/1) in its entirety.

The George Washington University
Faculty Senate Committee on
Appointment, Salary, and Promotion Policies
(including Fringe Benefits)

Final Report 2012-13
May 6, 2013

The ASPP committee had an active year this year. We met six times in the 2012-13 academic year and considered the following topics:

Faculty salaries: The Provost presented a document *Core Indicators of Academic Excellence* to the Faculty Senate in February 2013; this document included the faculty salary data for 2011-12. It is noted that as a University, we are at or above the 80th percentile of AAUP averages at all ranks; Assistant Professor rank is off by \$36 from the 80th percentile of AAUP averages. The Associate and Assistant Professor ranks in GSEHD are not doing well and they are below the 60th percentile of AAUP averages; The Professor ranks in CCAS are also below the 60th percentile of AAUP averages. We are always reminded of the Faculty Senate resolution on the books that states that no school should be below the 60th percentile. One school, GSEHD, consistently has remained below the 60th percentile and the reason given is that GSEHD hires a significant number of contract faculty. This has been an ongoing issue for some time and the ASPP committee believes this is a weak rationale.

Salary Equity Committee: This committee was formed in the academic year 2010-11 and its Chair, Professor Steve Tuch, provided regular updates to the ASPP committee on the workings of his committee. Through the computer based analysis, 141 cases were identified in the previous years and marked for further analysis. After a long delay, it was decided that the Committee would receive additional information on these outlier cases from their deans and then the Committee would carry out further analysis and make its recommendations for salary adjustments. This process is currently underway and it is hoped that this would be resolved sometime during this summer.

The ASPP Committee believes the University has taken a lackadaisical approach to salary equity as it has taken more than 3 years to get through the current cycle of salary equity review. It is noted that the Salary Equity Committee's current work is based on the salaries in 2010-11 and further inequities in the salaries must have arisen in the intervening years. Hopefully the next cycle of salary equity considerations would not take three years to resolution.

BAC (Benefits Advisory Committee): There have been several meetings of BAC this year. We had extensive discussions in BAC and ASPP committees on the health care benefits. For 2013, two major changes were put in place to the medical plans:

- There are 4 tiers of coverage through the addition of a new tier that includes employees and children.
- The floor for lower contribution rates for low earning employees has been raised from \$30,000 to \$35,000.

There are significant changes to prescription drug plans:

- The prescription drug co-pay increased for all types of prescriptions.
- Employees are able to fill 90 day prescriptions at local CVS stores as well as though CVS mail order for the same 90 day copay.
- Employees pay higher copay for continuing to fill 30 day maintenance prescriptions at retail. Additional costs kick in after 3 such refills at a retail pharmacy.

There has been a double digit increase in the cost of claims; this level is not sustainable. Options for bringing costs down are being considered, including eligibility requirements. For example, part time staff benefits currently are more generous than those of our peer institutions. Annual reviews of benefits will continue but they are also doing longer term reviews and will make projections based on these reviews. This will help employees be more mindful about health care costs. There may be implications for increased costs for those who are not doing preventative care. The costs of behaviors that are unhealthy are currently being spread over everyone, regardless of what is being done for preventative self-care.

Benefits Update: Here is the Spring 2013 information on university benefits:

- Last year, GW saw an increase of \$5.6 million (to a total cost of \$36 million) in medical and prescription drug costs. GW pays 70% of this cost.
- Retirement is our most expensive benefit.
- Last year, GW paid out approximately \$75 million in benefits for faculty and staff.
- Cost drivers: Increases in utilization, more inpatient hospital admissions, more inpatient days per admission
- At GW last year, 1% of employees were linked to 60% of our cost increases in terms of claims. Cancer and cardiovascular disease were two of the biggest drivers behind these increases.
- GW's mail order utilization for prescriptions is lower than CVS Caremark generally sees. To address this, GW began offering the "Maintenance Choice" to encourage use of mail order.
- Other action steps taken at GW to reduce costs:
 - Offering healthy pregnancy program
 - Introduced smoking cessation benefit
 - Exploring possibility of developing a program to incentivize faculty and staff wellness behaviors.

Strategic Plan: Faculty Senate Executive Committee requested our committee to review the Strategic Plan with a particular focus on the following: *p. 18 ff. (hire more STEM faculty); p. 20 (identify 4-8 new cross-disciplinary, cross-school centers); p. 20 (some new research centers to be "enterprise zones"); p. 20 (elimination of centers not generating "significant research activity"); p. 20 (input into determination of areas for new faculty lines?)*

The items listed relate to the pillars of the plan. The plan does not discuss the implementation, which are to be addressed by various working groups. The plan would create 50-100 new faculty positions, requiring the creation of a significant number of search committees. Other issues include faculty governance to include changing the policy on classified research which is

currently not allowed; changing the undergraduate curriculum to create a general undergraduate college to which all students would apply.

There have been many meetings on the plan with faculty and the Senate. The issues for ASPP are listed above, include STEM education versus cross discipline, closing down non-productive research, and the concept of joint hiring of faculty with federal agencies. The latter has been done on a case by case basis but at present there are no policies on this issue. Policies need to make hires of this type easier, but also have to deal with the fact that the employee will have two loyalties, and issues such as intellectual property and conflicts of interest will have to be dealt with.

Faculty Handbook: Vice Provost Martin shared a preliminary outline of the Faculty Handbook, which has not been updated since 1999. The new Handbook will be electronic with multiple links to original sources to minimize redundancy and the need for continuous updating. Given the proposed fluidity of information under the e-system, the committee would like to have a yearly snapshot of contents in case the faculty needs to define the terms in existence when they were hired. Dianne Martin agreed that this could be done.

Retirement Plans: Vice Provost Dianne Martin brought this issue to our committee. Faculty retirement is a national issue. Goal is to identify retirement factors that influence a decision to retire. After several sets of possible plans were considered, the ASPP committee advised the administration to construct plans that are like bell shaped curve—lower incentives at both ends of the age groups and higher incentive in the middle. Vice Provost Martin reported that Lou Katz engaged an actuary to cost out the various retirement plan models, including the one which the ASPP committee advocated. Subsequently, it was determined that, if the plan is open, then it becomes a defined benefit which has tax implications, as well as the need to set aside funds to pay for all eligible parties. This is different than the random window plan which has been offered from time to time at non-scheduled intervals.

We were advised that, in the short term, chairs and deans are informally using the new talking points provided by the Office of Academic Affairs to define ways to offer the various buyout packages.

Review of Promotion/Tenure Process at GW: The Faculty Senate Chair, Professor Michael Castleberry, asked ASPP to examine the ways in which promotion and tenure procedures and criteria are communicated to Faculty – and navigated by Faculty, Chairs, and Deans - across the university. Professor Castleberry conveyed to ASPP that the non-concurrence cases heard by the Executive Committee over the past summer made evident the fact that there is a pressing need for open dialogue between Deans, Chairs, and Faculty regarding these issues. The bar for promotion and tenure is getting higher as the University strives towards becoming a pre-eminent teaching and research institution. We established a subcommittee to study these issues. Several key points emerged during the ensuing discussion:

- i. APT criteria need to be written down, updated, and discussed on a periodic basis by Departments, Schools, and Deans so that people are on the same page regarding expectations surrounding promotion and tenure standards.

- ii. If a Department or School's APT criteria are in a document separated from the Department or School bylaws, are they binding in the same way they would be if they were embedded in the bylaws? This is a question that may need to be explored further.
- iii. Should Department Chairs be required to comment specifically on a faculty member's annual report regarding their progress towards promotion and tenure? Some ASPP members felt this was already an expectation of Chairs, while others thought it could be made clearer to Chairs what is expected of them in terms of their feedback on the annual report.
- iv. If Deans, School-wide, and Departmental APT committees were in closer communication with one another from the beginning regarding rising standards, we might be able to avoid School-wide and Departmental APT committees giving faculty members conflicting advice.
- v. Midterm reviews of tenure-track faculty in particular are the perfect time to give clear guidance regarding whether a faculty member is on track. When a new Dean comes on board AFTER a faculty member has already gone through their mid-term review, they are in a tough spot. Should the Provost convey to new Deans that they should avoid nonconcurring on those faculty members' promotion and tenure cases and instead focus on raising the bar with the group of faculty coming in new to GW?
- vi. Sometimes Departments "pass the buck" in saying yes to promotion and/or tenure for a faculty member because they don't want to be the "bad guy." Instead, they hope the Dean will issue a nonconcurrence with their recommendation. Departments need to take ownership for carrying out their due-diligence at the Department level and issuing denials when appropriate.

The subcommittee issued a report that was approved by the ASPP committee and is appended to this Annual Report for consideration by the Faculty Senate.

Respectfully Submitted

Murli M. Gupta, Mathematics (May 6, 2013)
Acting Chair, ASPP Committee

Membership of ASPP Committee (2012-13)

Abravanel, Eugene, Psychology

Achrol, Ravi, Marketing

Brown, Karen, Law

Bura, Efstathia, Statistics

Kanungo, Shivraj, Decision Sciences

Marotta, Sylvia, Counseling, Human and Organizational Studies

Pintz, Christine, Nursing

Plack, Margaret, Health Care Sciences

Schanfield, Moses S., Forensic Sciences
Sidawy, Anton, Surgery
Swaine, Edward, Law
Vincze, Eva, Forensic Sciences
Wirtz, Philip W., Decision Sciences

Ex officio

Acquaviva, Kimberly D., Nursing, Executive Committee Liaison
Ellis, Sabrina, Vice President for Human Resources
Hayton, Erica, HR
Katz, Louis H., Executive Vice President and Treasurer
Lerman, Steven, Provost and Executive Vice President for Academic Affairs
Lopez, Jennifer, Executive Director of Tax, Payroll and Benefits Administration
Martin, Dianne, Vice Provost for Faculty Affairs
Shea, Mafona, Gelman Library

The George Washington University
Faculty Senate Committee on
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Subcommittee Report on Nonconcurrences

The Context

In the past year in particular, and in the last three or four years in general, there has been an increase in the number of administrative non-concurrences in faculty promotion and/or tenure decisions. While we all recognize that this is a period of change as the university improves its academic standing, we believe that there are a few steps that can and should be taken to (i) navigate the new appointment, promotion, and tenure guidelines and (ii) communicate the processes to the faculty more effectively.

The overarching theme that seems to have emerged as a result of the discourse on this topic at various schools in the university is that there is a need for the newer and revised expectations to be communicated unambiguously and that the process of communicating these expectations needs to be institutionalized sooner rather than later. This essentially means developing a collective understanding of what should be done and how we should go about doing it.

The Specifics

It is understood that the Faculty Code is the overarching source document for all stakeholders, including administrators at university and school levels, department chairs, and faculty.

Given the diversity of program and departmental needs across the schools in the university, a uniform set of policies and procedures would not be effective; however some overarching principles can be constructed to ensure that both the new expectations and the process for communicating these, are known to all stakeholders. There is an urgent need for the following principles to be communicated:

1. The Provost's office, through the deans, specifies the expectations for timelines and standards for documentation of faculty members' progress through the promotion and tenure process.
2. All school and departmental Appointment, Promotion and Tenure (APT) committees update and align their guidelines regularly and communicate their decisions.
3. A transparent and collaborative process between university, school, department, and program faculty is expected to ensure effective decision-making. This process will prevent decisions by deans, who might be new to the university, from explicating standards of performance that either are rejected by departments, by subgroups of faculty or by deans. While such disagreements form an important part of the academic process, new faculty need clear messages about expectations as the university transitions towards greater academic excellence.

4. Departmental bylaws and APT Committee guidelines align with and reflect the shared set of expectations, and work from similar templates. Schools who have not reviewed bylaws and guidelines are expected to do these on a regular schedule that is communicated at the beginning of each academic year. Schools are encouraged to separate bylaws, which can only be amended according to strict timelines, from APT Committee guidelines which may need more flexibility in interpretation and in application.

The ASPP Committee offers some *process* suggestions for faculty and administrators to consider as they align expectations with guidelines.

- i. Schools are advised to establish “appointment, promotion, and tenure” orientation sessions where deans and chairs of APT Committees talk directly with new faculty and provide them with the specific school policy in writing or direct them to it online.
- ii. Faculty are reviewed against the criteria that are in place for them at the time of their hiring, or as indicated in their appointment letters.
- iii. All school APT Guidelines are communicated in writing as well as orally.
- iv. Faculty are encouraged to ask about the process at every level as they are charting their course towards their ultimate goal of promotion or tenure.
- v. Faculty are encouraged to maintain ongoing portfolios of their accomplishments as they move toward promotion or tenure.
- vi. Departmental chairs and APTs do due diligence throughout the review process, to include reviewing for alignment with annual reviews, three year contract reviews, and final reviews for promotion and tenure.
- vii. Departmental APT committees explicitly state the balance expected from faculty in the three areas of research, education and service. Departmental APTs align their procedures and reviews so as to meet university deadlines.
- viii. The Provost’s office establishes specific deadlines for promotion and tenure application submissions and communicates such deadlines to various schools and faculty.
- ix. The Provost’s office collaborates with the deans regularly, including orienting new deans on ways to communicate the deans’ expectations for raising the standards for promotion and tenure. This process includes training on school-wide APT procedures. There is a need for clear adherence to standards that were negotiated for faculty who are already in the pipeline when a particular dean is hired but whose decisions will be made under a new dean.

Report created by Professors Anton Sidawy, Shivraj Kanungo and Sylvia Marotta-Walters
(Subcommittee of ASPP Committee)

Modified and Approved by ASPP Committee for transmission to Faculty Senate: May 2, 2013

ANNUAL REPORT

Faculty Senate Committee on Professional Ethics and Academic Freedom 2012- 2013 Academic Year

The PEAF Committee met as a whole committee on October 5, 2012 and April 1, 2013. In addition, two subcommittees were formed. The subcommittee on Patent Policy met on November 27, 2012 and December 11, 2012. The subcommittee on the Sexual Harassment Policy met on November 21, 2012, and December 10, 2012.

- 1. RESOLUTION TO AMEND THE PROCEDURES FOR THE IMPLEMENTATION OF THE FACULTY CODE WITH RESPECT TO DEAN SEARCHES** During the 2011-2012 AY, the PEAF Committee reviewed the procedures followed in recent dean searches in several Schools and determined that some of those procedures were not consistent with the existing language of Part C.2.b. of the *Procedures for the Implementation of the Faculty Code* (pages 20-21) (*Code Procedures*) and the guidelines for dean searches set forth in Resolution 90/9 adopted by the Faculty Senate on December 14, 1990. The task was continued during the 2012-2013 AY. After discussions, the PEAF Committee approved a proposed resolution for the Faculty Senate at its meeting on October 5, 2012 entitled: RESOLUTION TO AMEND THE PROCEDURES FOR THE IMPLEMENTATION OF THE FACULTY CODE WITH RESPECT TO DEAN SEARCHES (12/4). The committee also approved a Committee Report entitled: “RECOMMENDED TEMPLATE FOR PROCEDURES FOR DEAN SEARCHES.” The resolution amended the *Code Procedures* by incorporating new guidelines for dean searches that are consistent with the principles of shared governance set forth in the *Faculty Code*, the *Code Procedures* and Faculty Senate Resolution 90/9. On January 11, 2013, Resolution 12/4 was voted unanimously by the Faculty Senate. The Committee Report was included in the Minutes of the Meeting for possible use in the future by schools embarking on dean searches.

- 2. PATENT, SOFTWARE, AND TANGIBLE RESEARCH MATERIALS POLICY**

PEAF members serving on the Patent Policy Subcommittee were Kurt Darr, Ted Barnhill, Pinhas Ben-Tzvi, Charles Garris, Murray Loew, Katalin Roth, and Ryan Watkins. Charles Garris volunteered to chair the subcommittee. The committee met with Dr. Charanjeet Guron, Associate Director of the GW Office of Technology Transfer; James Chung, Director of the Office of Entrepreneurship, Mr. Charles Barber, Office of General Counsel, and other technology transfer people.

Dr. Guron, provided the subcommittee with a DRAFT “Patent, Software and Tangible Research Materials Policy” which was virtually a newly written revision of the current policy. The PEAF sub-committee reviewed this draft policy with an eye to fairness to the university, particularly with respect to the use of university resources, fairness to the inventors, and the effect of the policy on the ability of the university to encourage

participation in generating commercializable intellectual property. The subcommittee sent the draft policy to a wide spectrum of stakeholders in the university community and requested comprehensive reviews. Reviewers included current and past faculty inventors, research administrators, IP Law faculty, and the Senate Committees on Research and Fiscal Planning and Budgeting. The response was excellent. Based on this response, the PEAF subcommittee submitted numerous changes and recommendations on December 12, 2012. To date, we have not received an administrative response. PEAF has been advised that due to administrative changes in the Office of Technology Transfer, the response to our recommendations has been delayed. We should expect a response in the 2013-2014 academic year.

3. SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES

PEAF members serving on the Sexual Harassment Policy Subcommittee were Kim Acquaviva, Ted Barnhill, Joan Butler, Charles Garris, Nick Kyriakopoulos, Lilien Robinson, and Art Wilmarth. C. Garris volunteered to chair the subcommittee. The committee met with Dr. Terri Reed, Vice Provost for Diversity and Inclusion, Richard Weitzner, Office of General Counsel, Darrell Darnell, Senior Associate Vice President for Safety & Security, and other key staff members who administer the current sexual harassment policy and Title IX.

Dr. Terri Reed provided the committee with a draft "SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES" which was a major revision of the previous "SEXUAL HARASSMENT POLICY AND PROCEDURES" which was approved by the Faculty Senate in 2005 in resolution 05/1. The changes in the policy were necessitated by guidance from the Department of Education, Office of Civil Rights, in the form of a "Dear Colleague Letter", a consent agreement between GW and DoE, and discussions between the administration and attorneys in the DoE Office of Civil Rights. The PEAF sub-committee reviewed this draft policy and sent the draft policy to a wide spectrum of stakeholders in the university community and requested comprehensive reviews. Reviewers included faculty including legal scholars from the Law School, students, administrators, committees such as the Joint Committee of Faculty and Students; Committee on the Status of Women Faculty and Librarians. The response was excellent. Based on this response, the PEAF subcommittee submitted on December 13, 2012 a list of 23 recommended changes. On March 8, 2013, we received the response of the administration whereby 18 of our recommendations were accepted. Explanations were given for the 5 recommendations not implemented. On April 1, PEAF met to discuss the policy and some additional changes were recommended. On April 26, the administration responded that they could not accommodate those additional recommendations. On the basis of the amended version of the "SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES" containing the 18 recommended changes, PEAF went forward and prepared "A RESOLUTION TO RECOMMEND ADOPTION OF THE SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES (13/1)" to be presented to the Faculty Senate on May 10, 2013. Attachments with the resolution included statements by three committee members.

Respectfully Submitted,

Charles A. Garris, Jr. Chair

*Chair: Garris, Charles A., Jr., Engineering

*Acquaviva, Kimberly, Nursing Education

*Barnhill, Theodore M., Finance

Ben-Tzvi, Pinhas, Mechanical and Aerospace Engineering

Butler, Joan, Clinical Research and Leadership

Cawley, James, Prevention & Community Health

Darr, Kurt J., Health Services Management & Leadership

Kyriakopoulos, Nicholas, Electrical and Computer Engineering

Loew, Murray, Electrical and Computer Engineering

Robinson, Lilien F., Art History

Roth, Katalin, Medicine

Watkins, Ryan, Educational Leadership

Wilmarth, Arthur E., Jr., Law

Windsor, Richard, Prevention and Community Health

Non-voting:

*Acquaviva, Kimberly D., Executive Committee Liaison

Barratt, Marguerite (Peg), Dean, Columbian College of Arts and Sciences

Berman, Paul S., Dean, GW Law School

Bezanson, Deborah, Gelman Library

Martin, C. Dianne, Vice Provost for Faculty Affairs

Weitzner, Richard, Associate General Counsel

*Member of Faculty Senate

Tribute Dr. Jay Robert Shotel
Professor of Special Education and Disability Studies

B.A 1967, Ed.M. 1970, Ed.D.1972 Temple University

Dr. Jay Robert Shotel came to the George Washington University in 1972 from Temple University as Assistant Professor of Special Education in the Special Education/Early Childhood M.A. degree program. He served in Department of Special Education, the Department of Teacher Preparation and Special Education, and later the Department of Special Education and Disability Studies as Chair for more than a decade. He served the M.A. and Ed.D. program in Early Childhood as Program Coordinator for six years. During his tenure in this role he developed on-line courses in Special Education Legal Issues and oversaw the development of online coursework in Symptoms and Etiology of Special Needs Children. He was part of the development of a school-wide Ed.D. course, Education 301, that included doctoral students from all seven of the doctoral programs of the department, coordinating the 301 Cohort for six years and continuing to teach in the course sequence until his retirement. He was a long-time instructor of Sped. 301, the Research Seminar in Special Education, and prepared many doctoral students for dissertation over the past decades. He is recognized as a teacher of exceptional merit and is much admired by students and faculty alike.

Dr. Shotel was active in sponsored research, receiving grants throughout a thirty-year period. He served as Principal Investigator or Project Direct on these projects in addition to his service on GSEHD committees. He also served as Acting Dean and Associate Dean of the School of Education and Human Development, was a member of the GSEHD Executive Committee and Tenure and Promotion Committee, and was famous for his ability to synthesize complex issues and present them visually in a meeting. He served the university in the Faculty Senate in 1978-1980 and served as a member of ASPP from 1978-1980, on Research from 1986-1989, and on Fiscal Planning and Budget in 2003-2004

Dr. Shotel brought a keen grasp of issues and the capability to bring together individuals with different views and help them forge agreements. He was renowned for his attention to detail, his ability to conceptualize and bring into being certificate and degree programs as well as turn ideas into sponsored projects. He performed many random acts of kindness for faculty and students during his long career which, along with his sense of humor, made him a colleague who was much admired. There is no replacement for him in the department or school as he was a unique member of the GSEHD community. He, along with his many talents and contributions, will continue to be appreciated long after his retirement.

Entered into the record of the Faculty Senate, May 10, 2013

A Tribute Dr. Lynda L. West
Professor of Special Education and Disability Studies

B.A. 1968, Benedictine College; M.Ed. 1976, Ph.D. 1970 University of Missouri

Dr. Lynda West came to the George Washington University in 1994 from the University of Missouri. Her research field is in the area of Secondary Special Education and Transition Education and she taught in the M.A. and Ed.D. programs of the Department of Special Education and then in the Department of Special Education and Disability Studies. She was recognized as a teacher of exceptional merit and is much admired by students and faculty alike. She is also recognized as being one of the nicest individuals ever to work in academia!

Dr. West served the department as Assistant and Acting Chair, she served as Coordinator of the Secondary Programs Group for many years, and she directed the grants and project activities of the Transition Special Education program. She served as Principal Investigator or Project Director of numerous projects in addition to her service on committees of the Department and the GSEHD. She chaired the GSEHD Executive Committee and served on the Curriculum Committee, AND the Tenure and Promotion Committee, She served the University in the Faculty Senate as an elected representative and member of the Executive Committee in 2001-02 and 2002-03 and served as a Committee member on ASPP from 1996-2001 and again in 2003-2004. She served on PEAF in 2008-09. She was a long-time representative of the GSEHD on the Faculty Senate Committee that nominated the slate of candidates each spring for the Senate Executive Committee for more than a decade.

Dr. West brought to all of these endeavors a keen intellect, a grasp of issues, and a willingness to work in the service of group goals. She will be remembered for her many kindnesses to so many individual members of the university community, her unrelenting smile, her sense of humor, and her willingness to do the hard work. She will be much missed.

Entered into the record of the Faculty Senate, May 10, 2013

FACULTY SENATE COMMITTEES
2013-14 Session

STANDING COMMITTEE CHAIRS

	<u>2013-14</u>	
1. APPOINTMENT, SALARY, AND PROMOTION POLICIES (INCLUDING FRINGE BENEFITS)	Executive Committee	<u>Liaison</u>
Acting Chair: Professor Murli M. Gupta	Acquaviva	
2. ATHLETICS AND RECREATION	Swaine	
Chair: TBD		
3. EDUCATIONAL POLICY	Harrington	
Chair: Professor Robert J. Harrington		
4. FISCAL PLANNING AND BUDGETING	TBD	
Chair: Professor Joseph J. Cordes		
5. HONORS AND ACADEMIC CONVOCATIONS	Rehman	
Chair: Professor Scheherazade S. Rehman		
6. LIBRARIES	McAleavey	
Chair: Professor David W. McAleavey		
7. PHYSICAL FACILITIES	Sidawy	
Chair: Professor Hermann Helgert		
8. PROFESSIONAL ETHICS AND ACADEMIC FREEDOM	Acquaviva	
Chair: Professor Charles A. Garris, Jr.		
9. RESEARCH	Lantz	
Chair: Professor Anthony M. Yezer		
10. UNIVERSITY AND URBAN AFFAIRS	Brazinsky	
Chair: Professor Kathryn Newcomer		
11. JOINT COMMITTEE OF FACULTY AND STUDENTS	Marotta-Walters	
Acting Faculty Co-Chair: Professor Jennifer Frey		

MEMBERS OF THE FACULTY SENATE COMMITTEES
2013-14 Session

FACULTY SENATE EXECUTIVE COMMITTEE

The list of Executive Committee members for the 2013-14 session can be found at this link:

http://www.gwu.edu/%07Efacsen/faculty_senate/execcom.html

DISPUTE RESOLUTION COMMITTEE

Chair: Professor Kurt J. Darr (SPHHS)

APPOINTMENT, SALARY, AND PROMOTION POLICIES, (INCLUDING FRINGE BENEFITS)

Acting Chair: Gupta, Murli M., Mathematics

Achrol, Ravi, Marketing

*Galston, Miriam, Law

Kanungo, Shivraj, Decision Sciences

Kumar, Rakesh, Biochemistry

Manfred, Ashcan, Surgery, Neurosurgery

Pints, Christine, Nursing

Pluck, Margaret. Health Care Sciences

Rau, Praveen, Marketing

Rosenbaum, Sara, Health Policy

Sell, Susan, Political Science

*Sidawy, Anton, Surgery

Wisenheimer, Adam, Mechanical & Aerospace Engineering

Zaghoul, Mona, Engineering & Computer Science

Non-voting:

*Acquaviva, Kimberly D., Nursing, Executive Committee Liaison

Katz, Louis H., Executive Vice President and Treasurer

Lerman, Steven, Provost and Executive Vice President for Academic Affairs

Martin, C. Dianne, Vice Provost for Faculty Affairs

Shea, Mafona, GW Libraries Human Resources Client Partner, Gelman Library

Stewart, Andrea W., Deputy University Librarian (alternate)

Wirtz, Philip, Vice Dean for Programs and Education, GW Business School

***Member of the Senate**

The most current Committee List is available online at www.gwu.edu/facsen/faculty_senate/pdf/CmtList.pdf

ATHLETICS AND RECREATION*** TBD**

Neirotti, Lisa, Tourism and Hospitality Management	
Barron, Mary J., Exercise Science	Shepherd, Robert, Honors/Anthropology
* Fairfax, Roger A., Jr., Law	Vail, Marianne, Physician's Assistant Program
Falk, Nancy, Nursing	Westerman, Beverly, Exercise Science
McHugh, Patrick, Management	

Non-voting:

Brown, Ann, Reference and Instruction Librarian, Gelman Library
Julien, Andre, Assistant Athletic Director
Director of Athletics and Recreation
Senior Associate Provost for Academic Operations
TBD, Student Liaison
*Swaine, Edward T., Executive Committee Liaison
Warner, Mary Jo, Senior Associate Director of Athletics and Recreation

EDUCATIONAL POLICY

* Chair: Harrington, Robert J., Engineering	
Beveridge, Scott, Counseling	
Carter, Geoffrey, English**	
*Castleberry, Michael S., Disability Studies	
Chin, May L., Anesthesiology	
Davis, Sandra L., Nursing	
Doebel, Hartmut, Biology	
Fu, Sidney, Medicine**	
Jakeman, Rick, Educational Leadership**	
Han, Zhiyong, Biochemistry/Molecular Biology	
Junker, Christopher, Anesthesiology**	
Kristensen, Randi, University Writing Program	
Parrish, Blaine, Prevention & Community Health**	
Seavey, Ormond, English	
Smith, Andrew M., Near Eastern Languages and Cultures	
*Srinivas, Prasad, Decision Sciences	
Ticktin, Max, Classics	

**These members will form the Admissions Policy Subcommittee of this group.

Non-voting:

Amundson, Elizabeth A., Registrar	
Beil, Cheryl, Associate Provost for Academic Planning and Assessment	
Ehrmann, Steve, Vice Provost for Teaching and Learning	
Feuer, Michael J., Dean, Graduate School of Education and Human Development	
*Harrington, Robert J., Engineering, Executive Committee Liaison	
Gaspar, Debbie, Coordinator of Education and Instruction, Gelman Library	
TBD, Student Liaison	
Konwerski, Peter, Senior Associate Vice President and Dean of Students	

***Member of the Senate**

The most current Committee List is available online at www.gwu.edu/facsen/faculty_senate/pdf/CmtList.pdf

Small, Daniel, Executive Director, Student Financial Assistance

FISCAL PLANNING AND BUDGETING

*Chair: Cordes, Joseph J., Economics—
Biles, Brian, Health Policy
Cherian, Edward J., Information Technology Management
Freund, Maxine, Special Education & Disability Studies
Griffith, William B., Philosophy, Emeritus
Lang, Roger, Electrical and Computer Engineering
Lindahl, Frederick, Accountancy
*Parsons, Donald O., Economics
Pintz, Christine, Nursing
Roddis, Kim, Civil & Environmental Engineering
*Yezer, Anthony M., Economics

Non-voting:

Brown, Michael E., Dean, Elliott School of International Affairs
*To be determined (TBD), Executive Committee Liaison
Guthrie, Doug., Dean, GW School of Business
Henry, Geneva, University Librarian and Vice Provost for Libraries (7/1/13)
Katz, Louis H., Executive Vice President and Treasurer
Lerman, Steven, Provost and Executive Vice President for Academic Affairs
Maltzman, Forrest, Senior Vice Provost for Academic Affairs and Planning
Morsberger, Mike, Vice President for Development and Alumni Relations
Rose, Vanessa R., Chief Budget Officer

HONORS AND ACADEMIC CONVOCATIONS

*Chair: Rehman, Scheherazade S., International Business and International Affairs
*Castleberry, Michael S., Special Education and Disability Studies
Friedman, Leonard, Health Services Management & Leadership
Fritz, Benno, Music
Ingraham, Loring J., Professional Psychology
Martin, Lisa, Medicine
Plack, Margaret, Health Care Sciences

Non-voting:

Baldassaro, Sarah G., Assistant Vice President for Communications
TBD, Student Liaison
Kinniff, Jennifer, Public Services and Outreach Librarian, Gelman Library
Martin, C. Dianne, Vice Provost for Faculty Affairs
*Rehman, Schherazade S., Executive Committee Liaison
Zeljak, Cathy, Director, Global Resources Center, Gelman Library (alternate)

*Member of the Senate

The most current Committee List is available online at www.gwu.edu/facsen/faculty_senate/pdf/CmtList.pdf

LIBRARIES

*Chair: McAleavey, David W., English
Berkovich, Simon, Engineering and Applied Science
Fon, Vincy, Economics
Friedland, Elise, Classics
Harizanov, Valentina, Mathematics
Liang, Chunlei, Mechanical and Aerospace Engineering
Lunsford, Beverly, Nursing
Robinson, Edward, Forensic Sciences
*Stott, Richard, History

Non-voting:

Ehrmann, Steve, Vice Provost for Teaching and Learning
Henry, Geneva, University Librarian and Vice Provost for Libraries (7/1/13)
Linton, Anne, Director, Library Services, Himmelfarb Health Sciences Library
*McAleavey, David W., Executive Committee Liaison
Pagel, Scott B., Director, Law Library
TBD, Student Liaison

PHYSICAL FACILITIES

* Chair: Helgert, Hermann J., Engineering and Applied Science
Anderson, Catherine, Interior Design
Bardet, Phillippe, Mechanical and Aerospace Engineering
Gallo, Linda L., Biochemistry and Molecular Biology, Emeritus
Junghenn, Hugo, Mathematics
Katz, Rebecca, Health Policy
King, Michael M., Chemistry
Lipscomb Diana L., Biology
Packer, Randall, Biology
Voldchansky, Nadia, Interior Architecture and Design

Non-voting:

Amundson, Elizabeth A., Registrar
Beheler, Melia, Director of Finance and Administrative Operations, Gelman Library
Katz, Louis H., Executive Vice President and Treasurer
O'Neil Knight, Alicia M., Senior Associate Vice President for Operations
Senior Associate Provost for Academic Operations
*Sidawy, Anton, Surgery, Executive Committee Liaison
TBD., Student Liaison

***Member of the Senate**

The most current Committee List is available online at www.gwu.edu/facsen/faculty_senate/pdf/CmtList.pdf

PROFESSIONAL ETHICS AND ACADEMIC FREEDOM

*Chair: Garris, Charles A., Jr., Engineering
Ben-Tzvi, Pinhas, Mechanical & Aerospace Engineering
Butler, Joan, Clinical Research and Leadership
Cawley, James, Prevention & Community Health
Darr, Kurt J., Health Services Management & Leadership
Irwig, Michael, Medicine
Kyriakopoulos, Nicholas, Engineering
McDonnell, Karen, Prevention & Community Health
Robinson, Lilien F., Art History
Roth, Katalin, Medicine
Teitlebaum, Joel, Health Policy
Watkins, Ryan, Educational Leadership
Wilmarth, Arthur E., Jr., Law
Windsor, Richard, Prevention and
Community Health

Non-voting:

*Acquaviva, Kimberly D., Executive Committee Liaison
Barratt, Marguerite (Peg), Dean, Columbian College of Arts and
Sciences
Maggs, Gregory, GW Interim Dean, GW Law School
Bezanson, Deborah Associate University Librarian for Research & User Services,
Gelman Library
Martin, C. Dianne, Vice Provost for Faculty Affairs
Weitzner, Richard, Associate General Counsel

RESEARCH

<p>*Chair: Yezer, Anthony M., Economics *Briscoe, William, Physics Casey, Andrea, Human & Org. Learning Gastwirth, Joseph, Statistics Dimri, Goberdhan, Biochemistry Greene, Jessica, Nursing Harwood, Kenneth, Clinical Research & Leadership Lee, Taeyoung, Mechanical & Aerospace Engineering</p>	<p>Opper, Allena K., Physiology Pan, Qing, Statistics Perry, Melissa, Environmental & Occupational Health Podini, Daniele, Forensic Sciences Ryan, Julie, Engineering Management Wu, Hao, Mathematics</p>
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RESEARCH (cont.)***Member of the Senate**

The most current Committee List is available online at www.gwu.edu/facsen/faculty_senate/pdf/CmtList.pdf

Non-voting:

Barratt, Marguerite (Peg), Dean, Columbian College of Arts and Sciences
Chalupa, Leo M., Vice President for Research
Dolling, David S., Dean, School of Engineering and Applied Science
*Lantz, Paula, Health Policy, Executive Committee Liaison
Mandeville-Gamble, Steven, Associate University Librarian for Collections and Scholarly Communication, Gelman Library
TBD, Student Liaison

UNIVERSITY AND URBAN AFFAIRS

*Chair: Newcomer, Kathryn, Public Policy and Public Administration
Alcorn, Marshall W., English
Chalofsky, Neal, Human and Organizational Learning
*Fairfax, Roger A., Jr., Law
Jacobson, Leslie B., Theatre and Dance
LeLacheur, Susan, Physician Assistant Program
Masselink, Leah E., Health Services Management & Leadership
McRuer, Robert, English
Pulcini, Joyce, Nursing
Roess, Amira, Global Health
Ruth, Richard, Professional Psychology
Schultheiss, Katrin, History
Squires, Gregory, Sociology

Non-voting:

Bergis, Jules, University Archivist, Gelman Library
Cannaday Saulny, Helen, Associate Vice President, Student and Academic Support Services
Cohen, Amy, Executive Director, Civic Engagement and Public Service
Demczuk, Bernard, Assistant Vice President for District of Columbia Affairs
*Brazinsky, Gregg A., History and International Affairs Executive Committee Liaison
Katz, Louis H., Executive Vice President and Treasurer
Konwerski, Peter, Senior Associate Vice President and Dean of Students
Robinson, Sammie, Associate Director, Undergraduate Admissions
Scarboro, Donna, Associate Vice President for International Programs
TBD, Student Liaison

The following Committee is not a Standing Committee of the Faculty Senate, but is listed for information:

***Member of the Senate**

The most current Committee List is available online at www.gwu.edu/facsen/faculty_senate/pdf/CmtList.pdf

JOINT COMMITTEE OF FACULTY AND STUDENTS

Faculty Members:

Acting Co-Chair: Frey, Jennifer, Special Education
Castleberry, Michael S., Special Education & Disability Studies
Doebel, Hartmut, Biology
Jain, Vivek, Medicine
Leftwich, Megan, Engineering & Applied Science
Roddis, Kim, Civil and Environmental Engineering
Wade, Alan, Theatre & Dance

Student Members

Co-Chair:

TO BE APPOINTED BY THE STUDENT ASSOCIATION

Non-voting:

Beil, Cheryl, Assistant Vice President for Academic Planning and Institutional Research
Guenther, Roy, Executive Associate Dean, Columbian College of Arts and Sciences
Konwerski, Peter, Associate Vice President and Dean of Students
Marotta-Walters, Sylvia, Counseling, Executive Committee Liaison
Varasteh, Aria, Student Liaison, (Gelman Library staff appointee)
* Wooldridge, Annie B., Assistant Vice President, Faculty Recruitment and Personnel

***Member of the Senate**

The most current Committee List is available online at www.gwu.edu/facsen/faculty_senate/pdf/CmtList.pdf

Report of the Executive Committee
Scheherazade S. Rehman, Chair
May 10, 2013

We begin the 2013-2014 Faculty Senate Session with today's meeting of the Senate. This is a unique time in the history of the Faculty Senate in that the Senate membership has increased by 40% with eleven new members coming on board.

I welcome you all to an exciting 2013-14 session just as you end your academic year. Please do everything you can to welcome new members, engage them in discussion of how the Senate does its work, inform them of the import of what the Senate does, and share with them the rules that guide the Senate's deliberations.

All members of the Faculty Senate are encouraged to sit on at least one Senate Standing Committee during the academic year. For members of the Senate new to this process it will provide insight into the work the Committees perform for this body. I will be contacting all new members who have not yet volunteered with suggestions for committee service, one of which will include the Committee I continue to chair, the Committee on Honors and Academic Convocations.

While we are all looking forward to a break in the academic year calendar, it is worthwhile to note the activities that will occur over the summer:

The agenda for the upcoming academic year 2013-14 will be a busy one for the Faculty Senate. Here are some of the key issues that are going to have to be addressed in a timely fashion:

The University has just concluded its ten-year strategic plan, which the Board of Trustees is expected to approve next week. There are parts of this plan that are pertinent to Faculty Senate involvement and decision-making. The Senate will have to navigate faculty involvement in this decision-making process through various committees on deciding how, when and if to implement parts of the university strategic plan.

Nonconcurrences

The 2012-2013 Executive Committee has completed the review of the nonconcurrence from Columbian College of Arts and Sciences and will forward a recommendation to the Department Chair, the Dean, and the Provost. We expect at least one other nonconcurrence to be transmitted in May.

Senate Committees

Today the Chairs and members of the Faculty Senate Standing Committees for AY 2013-2014 have been confirmed. The Committee Chairs will receive a charge from the Executive Committee during the summer and will be encouraged to schedule meetings very early in the academic year to begin their work. The process of the implementation of the strategic plan will evolve over the summer and specifics of the plan will be reviewed and recommendations made by the Committees to the Senate.

We are always aware that the Senate's role is advisory to the Administration of the University and for that reason we seek information from administrative officers with regularity, as with the invitation to Executive Vice-President and Treasurer Katz who reported and engaged with us today.

In the fall we will be hearing from Director of Development and Alumni Relations Morsberger. We will also hear from Vice President for Human Resources Ellis as we will be looking at the benefits package for 2014 in October,

We also will be inviting Dean Guthrie, the new Vice President for China Operations, to discuss his plans for the international expansion of the university, as well as others.

Our mission is to always be informed so that we may provide the faculty with accurate information about the status of the University in financial, programmatic, and policy areas. We will also be engaging with the new Chair of the Board of Trustees during this period of change based on the strategic plan.

Other Matters

Today those of you who are here on your first meeting of the new Senate session, I applaud you for helping pass the Sexual Harassment Policy; it is a critical milestone for this University to advance this issue on our campuses.

This falls under a general push for increasing and improving GW's record on diversity. It is my intention to push the University to increase its work on the issue of diversity in the coming academic year. And to work with one with one of (what I believe to be) our most remarkable talents in Rice Hall – Dr. Terri Reed. For those of you who do not know her – she is the Vice Provost for Diversity and Inclusion. I like to call her the Vice Provost of common sense.

President Knapp and Provost Lerman have articulated their commitment to making GW a more diverse and inclusive campus and have begun to direct central resources toward this end; they are working to expand these resources to help with faculty hiring, recruiting a diverse student body and periodically assessing the climate. However, we know that for the university to be successful in these areas it will be important for schools and departments to be fully supportive of and proactively participate in this commitment. This year the Executive Committee anticipates engaging the deans in sharing with the Senate the steps they are taking to incorporate a broad range of human experiences and perspectives in the pursuit of excellence in learning, research and service. This is important for the sake of accountability and to share strategies and best practices, especially in the area of faculty recruitment, promotion and retention.

I would like to take this opportunity to introduce the heart and soul of the Faculty Senate, Sue Campbell. If you have any questions regarding procedure or process or any Senate fact dating back 30 years or more, please ask her, as she serves as the hard drive memory of the Senate.

In conclusion I would like to offer the following personal remarks. For all of you who are returning to the Senate and all the new first-time senators, I would like to emphasize that in recent years, especially under the chairmanship of Michael Castleberry, the Senate has begun to work very closely with the Administration on key University policies, processes, and appointments. The working process (especially at the Executive Committee level of the Faculty Senate) with President Knapp and Provost Lerman has been very civilized, respectful, and much more transparent than in the history of GW. It is an incredibly important shift for shared governance and one I would continue to foster. Of course, that doesn't mean we have to always agree on everything.

I would also like to thank the previous Executive Committee Chair, Michael Castleberry, for his unwavering dedication to the Senate and this University. Some of you may not know this, but he just won (and richly deserved) the Trachtenberg Award for University Service. I would like invite a big round of applause for Professor Castleberry and thank him for his service and continued involvement with the Senate.

The next meeting of the Executive Committee will take place on August 23, 2013. Resolutions, reports, and any other matters should be submitted prior to that date. On behalf of the Executive Committee I thank all of you for your dedication to the Senate's work. I wish you all a healthy and productive summer break and I look forward to working with you next fall.

THE GEORGE WASHINGTON UNIVERSITY
Washington, D.C.

The Faculty Senate

May 2, 2013

The Faculty Senate will meet on Friday, May 10, 2013, at 2:10 p.m. in the State Room,
1957 E Street, N.W., 7th Floor

AGENDA

1. Call to order
2. Introduction of newly-elected and re-elected Senate members
3. Approval of the minutes of the regular meeting held on April 12, 2013
(minutes to be distributed)
4. A RESOLUTION TO RECOMMEND ADOPTION OF THE SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES
(13/1)
Charles A. Garris, Jr., Chair, Committee on Professional Ethics and Academic Freedom (The Resolution and five attachments are included with this agenda)
5. Introduction of Resolutions
6. Update on the University Budget
Executive Vice President and Treasurer Louis Katz
7. General Business
 - (a) Approval of dates for regular Senate meetings in the 2013-14 Session recommended by the Executive Committee as follows:

September 13, 2013	January 10, 2014
October 11, 2013	February 14, 2014
November 8, 2013	March 14, 2014
December 13, 2013	April 11, 2014
	May 9, 2014
 - (b) Nominations for election of Chairs and members of Faculty Senate Standing Committees for the 2013-14 Session (list to be distributed)
 - (c) Nominations for appointment by the President of the following faculty members to Administrative Committees:

Joint Committee of Faculty and Students: Faculty Co-Chair: Jennifer Frey;
Members: Michael Castleberry, Hartmut Doebel, Vivek Jain,
Megan Leftwich, Kim Roddis, and Alan Wade

Marvin Center Governing Board: Dana Tai Soon Burgess, Carl Gudenius, Leonard Friedman, and Cory Jorgensen

Marvin Center Program Board: Robert Shepherd

Student Grievance Review Committee: Kenneth Harwood, Rebecca Katz, Susan LeLacheur, Megan C. Leftwich, Blaine Parrish, Amira Roess, Richard Ruth, Julie Ryan, Edward Robinson, and Beverly Westerman

University Hearing Board: Roger Fairfax and Jane Thorpe

(d) Nominations for appointment of faculty members by the Board of Trustees to the following Trustees' Committees:

Committee on Advancement: Joseph J. Cordes

Committee on Academic Affairs: Scheherazade S. Rehman

Committee on External Affairs: Kathryn Newcomer

Committee on Student Affairs: Jennifer Frey

(e) Annual Reports of Senate Standing Committees
(The Physical Facilities Committee Report is attached)

(f) Report of the Executive Committee: Scheherazade S. Rehman, Chair

(g) Provost's Remarks

(h) Chair's Remarks

8. Brief Statements (and questions)

9. Adjournment

Elizabeth A. Amundson

Elizabeth A. Amundson

Secretary

Attachments:

1. 2013-14 Faculty Senate Membership List
2. Physical Facilities Annual Report
3. Resolution 13/1 and five attachments

**THE GEORGE WASHINGTON UNIVERSITY
THE FACULTY SENATE – 2013-14 SESSION**

Senate meetings for the 2013-14 Session will be held on the second Friday of each month, September through May. Following the May 10, 2013 Senate meeting, the full calendar can be found at this link:

http://www.gwu.edu/%7Efacsen/faculty_senate/Calendar.html

<u>Phone</u>	<u>Ex Officio Member (stated by the Faculty Organization Plan)</u>		
6500	Knapp, Steven** President		
<u>Phone</u> <u>Administrative Members (stated by the Faculty Organization Plan)</u>			
6510	Lerman, Steven Provost & Executive Vice President for Academic Affairs		
8393	Amundson, Elizabeth A. Registrar		
<i>(Appointed by the President):</i>			
741-2880	Akman, Jeffrey S. Dean, School of Medicine & Health Sciences		
6130	Barratt, Marguerite E. (Peg) Dean, Columbian College of Arts & Sciences		
6241	Brown, Michael E. Dean, Elliott School of International Affairs		
6080	Dolling, David S. Dean, School of Engineering & Applied Science		
2083	Eskandarian, Ali Dean, College of Professional Studies		
6161	Feuer, Michael J. Dean, Graduate School of Education & Human Development		
7270	Goldman, Lynn R. Dean, School of Public Health & Health Services		
6380	Guthrie, Doug Dean, GW School of Business		
3725	Johnson, Jean E. Dean, School of Nursing		
6288	Maggs, Gregory E. Interim Dean, GW Law School		
7808	Charnovitz, Steve Parliamentarian		
<u>Phone</u>	<u>Faculty Members</u>	<u>Term Expires</u>	<u>School</u>
7735	Acquaviva, Kimberly**	2014	Nursing
6911	Brand-Ballard, Jeffrey	2015	Columbian College of Arts & Sciences
0987	Brazinsky, Gregg A.**	2014	International Affairs
6788	Briscoe, William	2014	Columbian College of Arts & Sciences
1510	Castleberry, Michael S.	2015	Education & Human Development
5826	Cordes, Joseph J.	2014	Columbian College of Arts & Sciences
0056	Costello, Ellen	2015	Medicine & Health Sciences
7859	Downes, Alexander	2015	International Affairs
0376	Dickinson, Laura	2014	GW Law School
1150	Fairfax, Roger	2015	GW Law School
6781	Galston, Miriam	2015	GW Law School
3646	Garris Jr., Charles A.	2015	Engineering & Applied Science
3158	Harrington, Robert J.**	2014	Engineering & Applied Science
2763	Hawley, Robert	2015	Medicine & Health Sciences
6208	Helgert, Hermann J.	2014	Engineering & Applied Science
7072	Jacobson, Leslie	2015	Columbian College of Arts & Sciences
4179	Katz, Rebecca	2015	Public Health & Health Services
6568	Lantz, Paula**	2014	Public Health & Health Services
5639	Lindahl, Frederick W.	2015	Business
6642	Marotta-Walters, Sylvia**	2014	Education & Human Development
6515	McAleavey, David **	2014	Columbian College of Arts & Sciences
6823	McDonnell, Karen	2015	Public Health & Health Services
7259	Miller, Barbara	2015	International Affairs

*Executive Committee Chair

** Member of the Executive Committee

THE GEORGE WASHINGTON UNIVERSITY
THE FACULTY SENATE - 2013-14 SESSION

8563	Montague, Eugene	2015	Columbian College of Arts & Sciences
3959	Newcomer, Kathryn	2015	Columbian College of Arts & Sciences
3954	Parsons, Donald O.	2015	Columbian College of Arts & Sciences
6187	Price, Marie	2015	Columbian College of Arts & Sciences
9536	Pulcini, Joyce	2015	Nursing
6813	Rehman, Scheherazade S. *	2015	Business
8515	Roddis, Kim	2015	Engineering & Applied Science
741-2911	Shesser, Robert M.	2014	Medicine & Health Sciences
741-3225	Sidawy, Anton**	2014	Medicine & Health Sciences
741-2234	Simon, Gary L.	2015	Medicine & Health Sciences
2078	Srinivas, Prasad	2015	Business
8154	Stott, Richard	2014	Columbian College of Arts & Sciences
0608	Swaine, Edward T.**	2014	GW Law School
0399	Swiercz, Paul M.	2014	Business
5981	Weiner, Robert	2015	Business
0831	Williams, James H.	2015	Education & Human Development
6755	Yezer, Anthony M.	2014	Columbian College of Arts & Sciences

Updated April 30, 2013

*Executive Committee Chair

** Member of the Executive Committee

The George Washington University
Faculty Senate Committee on Physical Facilities
Final Report

April 22, 2013

During the academic year 2012/13 the Senate Committee on Physical Facilities met on three occasions. In the main it concerned itself with the physical facilities on the main campus, specifically the status of University classrooms, the plans for Audio-Visual and Information Technology and the status of current and planned construction and renovation projects.

At its first meeting Craig Linebaugh, Senior Associate Provost for Academic Operations, provided a summary of currently available classrooms and their capacities. SAVP Linebaugh expressed the urgent need of increasing the number of classrooms of small to medium size and offered several possible plans for reconfiguring existing office space into classrooms in the wake of the SEH coming online and the rededication of parts of several existing buildings. He also pointed out the desirability of improving the efficiency of classroom utilization by the implementation of intelligent scheduling systems.

SAVP Linebaugh also provided a summary of the status of audiovisual and information technology in main campus classrooms and the implementation of SCALE-UP and Colonial Cast classrooms. He pointed out the challenges faced by the staff of Academic Technologies in maintaining obsolete equipment in reasonable working order.

At its second meeting the Committee concerned itself with the status of various construction projects on the main campus and the Virginia Science and Technology Campus, including the SEH, the Public Health Building for the School of Public Health and Health

Services, and the GW Museum. It received a detailed report from Senior Associate Vice President Alicia O'Neil Knight on the current state of various other projects planned or underway.

At its third meeting the committee focused on the development of a plan for improving the audiovisual and information technology infrastructure in main campus classrooms. It solicited comments from affected faculty members and compiled a list of desirable initiatives. Among the major suggested developments are the following:

All classrooms should be equipped with display systems for visual information, including white boards, smart boards and walls painted so as to be usable as whiteboards.

All classrooms should contain projection equipment for computer, IPad or smart phone based presentations.

All classrooms should have high speed access to the Internet, preferably with wireless connectivity.

All classrooms should be equipped with display cameras to replace the overhead projectors.

At the Faculty Senate Meeting on November 9, 2012 Professor Helgert offered the Senate a report on the status of the University construction projects and the plans for improving the audiovisual and information technology infrastructure in the classrooms.

Members: Philippe Bardet, Linda Gallo, Hermann Helgert (Chair), Hugo Junghenn, Michael King, Diana Lipscomb, Randall Packer, Catherine Anderson,

Ex-Officio, non-voting: Elizabeth Amundson, Melia Beheler Alan Greenberg (Senate Executive Committee Liaison), Louis Katz, Alicia O'Neil Knight, Craig Linebaugh.

A RESOLUTION TO RECOMMEND ADOPTION OF THE SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES (13/1)

WHEREAS, the members of the George Washington University Faculty Senate believe that students, faculty, and staff have a right to work and study in an atmosphere free from sexual harassment and sexual violence; and

WHEREAS, the members of the George Washington University Faculty Senate recognize the importance of fostering a campus climate in which sexual harassment and sexual violence is prevented, reported, and adjudicated appropriately and fairly; and

WHEREAS, in Resolution 05/1, adopted on May 13, 2005, The Faculty Senate endorsed the Policy and Procedures for Sexual harassment which was proposed by the *Ad Hoc University Committee on the Sexual Harassment Policy and Procedures*; and,

WHEREAS, in Resolution 05/1, the Faculty Senate determined that the endorsed Sexual Harassment Policy and Procedures satisfied the following objectives: (i) prohibiting sexual harassment by any student, staff member, faculty member, or other persons in the University community; (ii) encouraging reporting of sexual harassment before it becomes severe or pervasive; (iii) identifying persons in the University Administration to whom incidents of sexual harassment may be reported; (iv) prohibiting retaliation against persons who bring sexual harassment complaints; (v) assuring confidentiality to the full extent consistent with the need to resolve complaints of sexual harassment appropriately and fairly; (vi) assuring that allegations of sexual harassment will be properly, thoroughly, and impartially addressed with appropriate regard for the interests of the persons involved and principles of fairness and due process; and, (vii) providing for appropriate corrective action to be taken against persons who have engaged in sexual harassment; and,

WHEREAS, from May 2005 to May 2012, while the Policy and Procedures for Sexual Harassment endorsed by Resolution 05/1 continued in operation, the University Administration did not inform the Faculty Senate of any incidents where the Policy and Procedures were found to have been inadequate

WHEREAS, the Obama administration, under the leadership of Vice President Biden, has taken a very proactive position on Violence Against Women¹ and has instructed the Department of Education, Office for Civil Rights, to provide further guidance to Universities through a "Dear Colleague Letter" under Title IX of the Civil Rights Act of 1964 and its amendments.

WHEREAS, the Dear Colleague Letter states:

"Education has long been recognized as the great equalizer in America. The U.S. Department of Education and its Office for Civil Rights (OCR) believe that providing all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students' right to receive an education free from discrimination and, in the case of sexual violence, is a crime."

WHEREAS, the "Dear Colleague Letter" further states:

"The statistics on sexual violence are both deeply troubling and a call to action for the nation. A report prepared for the National Institute of Justice found that about 1 in 5 women are victims of completed or attempted sexual assault while in college.³ The report also found that approximately 6.1 percent of males were victims of completed or attempted sexual assault during college.⁴ According to data collected under the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f), in 2009, college campuses reported nearly 3,300 forcible sex offenses as defined by the Clery Act.⁵ This problem is not limited to college. During the 2007-2008 school year, there were 800 reported incidents of rape and attempted rape and 3,800 reported incidents of other sexual batteries at public high schools.⁶ Additionally, the likelihood that a woman with intellectual disabilities will be sexually assaulted is estimated to be significantly higher than the general population.⁷ The Department is deeply concerned about this problem and is committed to ensuring that all students feel safe in their school, so that they have the opportunity to benefit fully from the school's programs and activities."

And,

1

"Under the leadership of then-Senator Joe Biden, Congress recognized the severity of violence against women and our need for a national strategy with the enactment of the Violence Against Women Act in 1994. This landmark federal legislation's comprehensive approach to violence against women combined tough new provisions to hold offenders accountable with programs to provide services for the victims of such violence." [White House Fact Sheet]

WHEREAS, the GWU policy adopted through resolution 05/1 has been determined by attorneys from the U. S. Department of Education, Office for Civil Rights, to be deficient under TITLE IX. Specifically, the policy is required to: (i) convey the kinds of conduct that constitutes sexual harassment, including sexual assault and other forms of sexual violence; (ii) clarify that requiring the parties to mediate is not an option for resolving sexual assault complaints; (iii) provide equitable processes for both parties, including similar and timely access to any information used at a hearing; and, (d) designate reasonable but specific time frames for the major stages of the complaint; and,

WHEREAS, The penalty for failure to comply with Title IX in the most extreme circumstances can include the termination of all or part of an institution's federal funding, including grants, subsidies, Pell grants, scholarships and other program funds from the federal government; and,

WHEREAS, in addition to the loss of federal funds, universities may be sued by those seeking redress for violations of Title IX; and,

WHEREAS, GWU administrators and counsel have expressed very strong concern about jeopardizing all GWU federal funding by deviating from the spirit of the "Dear Colleague Letter" and making the university vulnerable to lawsuits under violations of Title IX; and,

WHEREAS, the Faculty Senate Committee on Professional Ethics and Academic Freedom (PEAF) sent a proposed revision of the policy which was agreeable to the Department of Education to a wide spectrum of the GWU community requesting input which resulted in an excellent and substantive response;

WHEREAS, based on the response from the university community, PEAF recommended 21 modifications of the policy, from which the administration accepted most of the recommendation and provided satisfactory explanations for others; and,

WHEREAS, the members of the George Washington University Faculty Senate acknowledge the efforts made by the Office of the Vice Provost for Diversity and Inclusion to revise the interim policy based on recommendations provided to them by the Professional Ethics and Academic Freedom Subcommittee on the Interim Policy on Sexual Harassment and Sexual Violence; and

WHEREAS, members of the PEAF Committee requested four additional changes from the Office of the Vice Provost for Diversity and Inclusion, but those changes were not accepted by that Office:

WHEREAS, the PEAF Committee has concluded that those four requested changes, as described in the second resolving clause of this Resolution, are essential to guarantee fundamental fairness in the operation of the proposed SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES while allowing the University to comply fully wth the "Dear Colleague Letter";

WHEREAS, the Faculty Senate recognizes that, as provided in Article IX.A. of the *Faculty Code*, the Faculty Senate plays an essential role in the governance of the University by participating with the Administration and the Board of Trustees in "the formulation of policy and planning decisions affecting the quality of education and life at the University," including policies such as the proposed SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES

NOW, THEREFORE, BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

1. Recommends that the "SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES" should be adopted as University policy; and,
2. The Faculty express concern that the following elements are lacking in the policy:
 - a. The policy does not contain a provision requiring the University to send written notices of the Policy and Procedures at least annually to all University stakeholders (including faculty, staff, students and parents of undergraduate students), including information relevant to the issue of consent and personal responsibility for acts committed while under the influence of alcohol or drugs;
 - b. The policy does not include a provision defining the "preponderance of the evidence" burden of proof as requiring "substantial evidence showing that it is more likely than not that a fact is true or an event occurred."
 - c. The policy does not include a provision requiring that, in hearings for sexual violence cases, the University shall make arrangements so that either (i) the parties, testifying witnesses and hearing panel members can see and hear each other through the use of live videoconferencing facilities, or (b) the parties, testifying witnesses and hearing panel members are present in the same room and can hear each other, with the Complainant having the right to testify behind a screen; and

d. The policy does not include a provision requiring the Administration to provide to the Respondent known exculpatory evidence that is in the Administration's possession.

ATTACHMENTS:

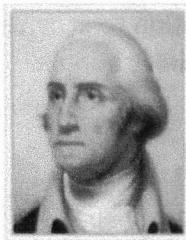
- i. "SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES".
- ii. "Dear Colleague Letter" of Office for Civil Rights, Department of Education, April 4, 2011.
- iii. Comments of Professor Theodore Barnhill, SB
- iv. Comments of Professor Nicholas Kyriakopoulos, SEAS
- v. Comments of Professor Arthur Wilmarth, Law

Faculty Senate Committee on Professional Ethics and Academic Freedom

Charles A. Garris, Jr., Chair

May 2, 2013

for complete policy
See website



THE GEORGE
WASHINGTON
UNIVERSITY
WASHINGTON DC

Responsible University Official:

Responsible Office:

Origination Date: April 1999

SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES

Policy Statement

The George Washington University is committed to maintaining a positive climate for study and work, in which individuals are judged solely on relevant factors, such as ability and performance, and can pursue their activities in an atmosphere that is free from coercion, intimidation and violence. The university mission statement provides that the university "values a dynamic, student-focused community stimulated by cultural and intellectual diversity and built upon a foundation of integrity, creativity, and openness to exploration of new ideas." The university is committed to free inquiry, free expression, and the vigorous discussion and debate on which advancement of its mission depends. Sexual harassment is destructive of such a climate and will not be tolerated in the university community.

Reason for Policy

This policy document informs members of the university community about sexual harassment, including sexual violence, and explains what they can do if they encounter or observe it in connection with any university program or activity.

Who Needs to Know This Policy

Faculty, staff, students, visitors to GW campuses, and participants in university programs and activities, both on campus and in other locations.

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To: Senate PEAF Committee

From: Ted Barnhill

Date: 4/30/2013

Subject: Concerns Regarding the DRAFT SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES

All of us support strong policies on sexual harassment and violence that are consistently enforced. Some of us remain vocal advocates for: (1) full and frequent disclosure of the policies to all parties (parents, students, faculty, and staff), and (2) a commitment to requiring substantial evidence of wrong doing prior to the termination of faculty or staff or expulsion or suspension of students.

There is no generally accepted definition of "preponderance of evidence". In sexual harassment and violence cases there may be little or no evidence. False, emotional or confused claims do occur. Our proposal to clarify the interpretation of "preponderance of evidence" is focused on insuring that career and education ending decisions are based on substantial evidence. We believe that this is consistent with Title IX and good policy and that it is appropriate to include this language in the University policies and procedure. We are told that the University has in the past required substantial evidence before faculty or staff was terminated or students are suspended or expelled.

I note that the University recently entered into a consent agreement which has not been provided to the PEAF Committee. This makes shared governance very difficult. It is entirely possible that the University has already agreed to more aggressive procedures with limited evidentiary requirements. A wink and a nod that everything has worked o.k. in the past is no substitute for a commitment to making future decisions on the basis of substantial evidence.

It is also important to note that the PEAF has not interviewed either plaintiffs or defendants in sexual harassment and violence cases to determine how well they believe the process has worked and what changes may be needed. Thus we do not have firsthand information to support assertions about how well the process has worked in the past.

A troubling point is that the University Administration has repeatedly and *explicitly rejected* the proposition that substantial evidence of wrong doing is necessary before faculty, staff, or students may be separated from the University. Given the Federal Government's aggressive behavior including the Dear Colleague letter it would not be surprising to see a significant, and perhaps justified, increase in complaints. Some of these complaints may have limited or no evidence of wrong doing. Given the threatened financial penalties and potential law suits the University could be pressured to terminate faculty or staff or expel students in the absence of substantial evidence of wrong doing. This potential outcome is consistent with the recent positions taken by the University on standards of evidence and their clear focus on financial matters.

As an old libertarian I joke with my cousin, who is a political science professor, that the most profound thing they have discovered is that "power corrupts and absolute power corrupts absolutely". Have we

forgotten the many sham trial abuses where defendants were convicted in the absence of evidence (Salem, Georgia, Moscow, Afghanistan, etc. etc.)? Are we prepared to have our students, our colleagues, and ourselves face career and education ending sanctions in the absence of substantial evidence of wrong doing? I am not so inclined. To do so even raises the possibility that at some time in the future a controversial professor could be falsely accused and separated from the University thus impacting academic freedom.

Any appeal by terminated faculty or expelled students would have to be based on "clear and convincing evidence" which would be impossible to deliver in circumstances where there is no substantial evidence. While it would involve significant effort we should consider asking to have the Executive Committee review any convictions of sexual harassment and violence and expressing an opinion on appropriate sanctions prior to their being decided.

The full PEAF has not even met to discuss and vote on the DRAFT SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES. It is a sad day for shared governance when the PEAF is instructed by the Executive Committee to put together (and expected to support) a resolution on SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES for presentation to the Faculty Senate at the May 10 Faculty Senate meeting for discussion and possible voting.

If a decision is made to send a motion to approve the draft policy and procedures to the Faculty Senate for a potential vote on May 10, 2013 I ask that this memo be attached to reflect my concerns on this matter.

In terms of a procedure to move forward it seems to me that the entire University community (students, faculty and staff) should receive a full briefing on and discussion of the issues prior to any vote by the Faculty Senate. My hope was (is) that Charles would (will) develop a white paper that lays out the issues which would be distributed to the University community. Senators would then have an opportunity to discuss the topic with their school faculties. In time the Senate would be in a position to debate and vote on any resolution(s).

For many reasons I believe that any votes by the PEAF and/or Senate should be taken by written secret ballot.

All the best,

Ted Barnhill

COMMENTS OF PROFESSOR NICHOLAS KYRIAKOPOULOS, 4/30/2013

Dear Charles,

In addition to the concerns expressed by Art and Ted, I have a more fundamental concern that goes to the principle of self-governance of the faculty. By any measure, sexual harassment and sexual violence constitute "gross personal misconduct", that, if proven, can result in revocation of tenure. The Code has detailed procedures involving only the faculty for dealing with such allegations. The proposed procedures inject non-faculty actors in the adjudication of gross personal misconduct involving the faculty and erode the principle of self-governance.

Furthermore, the recourse of a faculty member to the grievance process after the decision by the hearing panel as constituted by the proposed policy defies reason. Suppose a faculty member is found guilty by the hearing panel using the standard of preponderance of evidence. Were the faculty member to initiate a grievance according to the Code, he or she would be faced with the Herculean task of presenting clear and convincing evidence to reverse a verdict reached by the lower standard of preponderance of evidence.

In the face of these concerns, the revised resolution is a modest improvement over the original one. Considering the tight deadline under which you operate, I will support bringing it to the Senate for discussion under the condition that the issues raised by Art, Ted and myself are brought to the attention of the Senate.

Nick

COMMENTS OF PROFESSOR ARTHUR WILMARTH, April 30,2013

On 4/30/2013 12:01 PM, Arthur Wilmarth wrote:

Dear Charles:

I endorse and support your revised draft of the resolution, in the form attached to your message of yesterday evening (April 29th). I believe the revised draft will allow the Faculty Senate to go forward with the Administration's proposed Sexual Harassment and Sexual Violence Policy and Procedures while also clearly stating the PEAF Committee's concerns about four additional changes that are needed to ensure fundamental fairness to all parties in sexual violence cases.

For the reasons stated below, I strongly believe that the "Dear Colleague" letter from the Office of Civil Rights of the Department of Education does NOT conflict in any way with the concerns stated in subclauses (a), (b), (c) and (d) of the new Resolving Clause 2.

The Dear Colleague letter states (pp. 14-15) that universities should "implement preventive education programs" to inform University stakeholders about "what constitutes sexual harassment and sexual violence, the school's policies and disciplinary procedures, and the consequences of violating these policies." The annual written notice proposed in Resolving Clause 2(a) would promote that educational objective and would therefore help GW to comply with the Dear Colleague letter. The University Compliance Office already sends a written notice each semester reminding University faculty and staff about University compliance policies, including the Statement of Ethical Principles. The Administration has NOT offered any reason why the University should not send the annual written notice proposed in Resolving Clause 2(a).

The Dear Colleague letter (p. 11) states that "in order for a school's grievance procedures to be consistent with Title IX standards, the school must use a preponderance of the evidence standard (i.e., it is more likely than not that sexual harassment or violence occurred)." The letter also states (id.): "The 'clear and convincing' standard (i.e., it is highly probable or reasonably certain that the sexual harassment or violence occurred) . . . is a higher standard of proof" and would be "not equitable under Title IX." The standard of proof in proposed Resolving Clause 2(b) -- defining preponderance of the evidence as "substantial evidence showing that it is more likely than not that a fact is true or an event occurred" -- is entirely consistent with the foregoing language of the Dear Colleague letter. The definition in proposed Resolving Clause 2(b) uses a "more likely than not" standard and does not attempt to establish a "clear and convincing" standard of proof. The Administration disagrees, but I believe a requirement of "substantial evidence" to show that a conclusion is "more likely than not" to be true is completely consistent with the Dear Colleague letter as well as fundamental fairness for all parties.

The Dear Colleague letter (p. 12) "strongly discourages schools from allowing the parties personally to question or cross-examine each other during the hearing." The Administration's proposed Policy and Procedures do NOT allow the parties to directly question each other, and the PEAF Committee has NOT disagreed with that position. Instead, PEAF Committee members have proposed, in Resolving Clause 2(c), that the parties and testifying

witnesses should be able to hear each other on a live basis, either through use of live videoconferencing facilities or by allowing the Complainant to testify behind a screen in the hearing room. The right of the accused to hear -- on a live basis -- testimony presented by his or her accusers is a fundamental right recognized in American jurisprudence that we should uphold. The Dear Colleague letter does NOT attempt to prohibit the exercise of that right, and we should not deny that right to Respondents in view of the likely life-altering and career-ending consequences of a finding of sexual violence. Under the Code of Student Conduct (paragraph 13.a.), the MINIMUM recommended sanction for sexual assault is one year's suspension from the University and exclusion from campus and University housing. In addition, any person found to have committed sexual violence is likely to be barred from a career in many fields, including education, medicine, nursing, law and law enforcement.

The Dear Colleague letter does NOT include any discussion of whether a university should provide known exculpatory evidence in its possession to Respondents. The right of the accused to receive exculpatory evidence from the prosecutor is another fundamental right recognized in American jurisprudence, and we should not deny it to Respondents. The proposal in Resolving Clause 2(d) would only require the Administration to provide KNOWN exculpatory evidence in its possession to Respondents -- it would not require the Administration to undertake a special investigation to find such evidence. The Administration has NOT contended that the proposal in Resolving Clause 2(d) would violate the Dear Colleague letter. Instead, the Administration would simply prefer not to have the duty to provide known exculpatory evidence to Respondents. That preference is NOT consistent with fundamental fairness.

For the foregoing reasons, I believe that Resolving Clause 2 would not require the University to violate the Dear Colleague letter in any way. The PEAF Committee should therefore affirm the principles of fundamental fairness embodied in Resolving Clause 2. Accordingly, I endorse and support Charles' revised draft of the resolution.

Thanks very much, and best regards Art